



THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)



Policy and Procedure Manual California Department of Social Services Food Distribution Unit

This institution is an equal opportunity provider (REV 2/2021)

Contents

Section 1: Introduction	1
Section 2: Terms, Definitions and Acronyms	2
Section 3: Allocations and Transfers of Commodities	8
(3.1) USDA Funding Formula Applied to States	8
(3.2) CDSS Funding Formula Applied to ERAs	8
(3.3) CDSS Commodity Allocation to ERAs	8
(3.4) USDA Priority System Requirements	8
(3.5) Food Bank Commodity Allocation to Distribution Sites	9
(3.6) Allocation to Avoid Waste	9
(3.7) USDA Commodity Transfers	9
Section 4: Eligibility Criteria for Eligible Recipient Agencies and Distribution Sites	10
(4.1) ERAs – Definition and Criteria	10
(4.2) Tax Exempt Status	11
(4.3) Distribution Sites	11
Section 5: Contracts and Agreements	12
(5.1) Agreement between USDA and CDSS	12
(5.2) Agreements between CDSS and ERAs	12
(5.3) Agreements between ERAs	13
(5.4) Transfer of Responsibility to a New Food Bank	14
Section 6: Eligibility Criteria for Recipients	15
(6.1) CDSS Responsibility	15
(6.2) ERA Responsibility	15
(6.3) Recipient Income-eligibility Criteria	15
(6.4) Recipient Residency Criteria	16
(6.5) Picking up Commodities for Others	16
(6.6) Congregate Feeding Agency Recipient Criteria	16
Section 7: Distribution Guidelines and Procedures	18
(7.1) Frequency and Rate of Distribution	18
(7.2) Closed Distribution Sites	18
(7.3) Site Distribution Procedures	19
(7.4) TEFAP Distribution in Conjunction with Other Programs	19
(7.5) Required Documents at Distribution Sites	20

(7.6) The Emergency Food Assistance Program (TEFAP) Eligibility Certification (EFA-7) Form	20
(7.7) Unrelated Activity	21
(7.8) Civil Rights	21
Section 8: Ordering and Receiving USDA Commodities	23
(8.1) USDA Commodity Shipments	23
(8.2) USDA Commodity Orders	23
(8.3) USDA Distribution Schedules	24
(8.4) USDA Delivery Notification	24
(8.6) Contract Modification Requests	24
(8.7) Inspecting The Shipment	25
(8.8) Destination Changes	26
(8.9) Unloading The Shipment	26
(8.10) Detention Records	26
(8.11) Undeliverable USDA Foods	27
(8.12) Quantity of USDA Foods	28
(8.13) Replacement	28
(8.14) Split Shipments	28
Section 9 Local Donations	30
Section 10 Storage	31
(10.1) Federal Regulatory Storage Requirements	31
(10.2) Specific Storage Requirements	31
(10.3) Storage Facilities Reviews	32
(10.4) Commercial Storage Facilities Contracts	32
Section 11 Inventory	33
(11.1) Inventory Reviews	33
(11.2) Physical Inventory	33
(11.3) Excessive Inventory	33
Section 12: USDA Foods Loss	35
(12.1) Discovery of a USDA Foods Loss	35
(12.2) USDA Foods Loss with a Bad Actor	35
(12.3) USDA Foods Loss Valued Over \$500 with No Bad Actor	36
(12.3) Claim Determination	36
(12.4) Replacement by ERA	36
(12.5) Out of Condition Foods	36

(12.6) Food Recalls	37
Section 13: Disposal Rules and Procedures	38
(13.1) Disposal Authorization	38
(13.2) Disposal Procedures	38
(13.3) Disposal Records	38
Section 14: Records and Reports	40
(14.1) Records	40
(14.2) Reports	40
(14.3) Late Reports	40
(14.4) Recording Participation Numbers	40
(14.5) Record Retention	41
Section 15: Compliance Reviews/Audits and Accountability	42
(15.1) USDA Compliance Reviews/Audits	42
(15.2) CDSS Compliance Reviews	42
(15.3) ERA Compliance Reviews	43
(15.4) Corrective Action Plans	43
(15.5) ERA Accountability	43
(15.6) 2 CFR 200 – Audit Requirements	44
Section 16: Reimbursement Claiming Process	45
(16.1) Reimbursement for Expenses	45
(16.2) Claiming Timelines	45
(16.3) Claiming Process	45
(16.4) Monetary Penalties for Late Reports	46
(16.5) Allowable and Restricted Costs	46
(16.6) Capital Expenditures	47
(16.7) Cash Advances	48
Section 17: Complaints	49
(17.1) Program Complaints	49
(17.2) ERA Responsibility	49
(17.3) Complaints Received by ERAs	49
(17.4) USDA Food Complaints	50
Section 18: Forms and Charts	51
(18.1) Inventory Reports	51
(18.2) Commodity Reports	51
(18.3) Certification and Eligibility Documentation	51

(18.4) TEFAP Participation Reports	51
(18.5) Request for Reimbursement of Expenses	51
(18.6) TEFAP Income Eligibility Chart	52
(18.7) Distribution Site Signage	52
(18.8) Recommended Distribution Site Agreement	52
(18.9) Alternate Pick-up Request Form:	52

Section 1: Introduction

In California, The Emergency Food Assistance Program (TEFAP) is administered by the California Department of Social Services (CDSS), located at 744 P Street, Mail Station (MS) 19-51, Sacramento, California 95814. The Food Distribution Unit (FDU) administers the United States Department of Agriculture (USDA) donated commodity distribution program throughout California. Currently, 49 agencies serve all 58 counties within California.

Information on California's TEFAP can be obtained by visiting the TEFAP website on the internet at [Food Distribution Unit](#).

The Policy and Procedure Manual for TEFAP is designed to serve as a guide to Title 7, Code of Federal Regulations (CFR), Parts 250, and 251 that pertains to TEFAP, as well as to outline TEFAP policies and procedures for program compliance.

Description:

The TEFAP provides low-income individuals and households with surplus commodities donated by USDA to supplement daily nutritional needs. The TEFAP was not designed to satisfy *all* hunger needs or nutritional requirements of individuals or households. Program-eligible recipients may receive commodities through distribution sites that distribute packaged food for household consumption, or through congregate feeding sites that serve meals.

Under a written agreement, the CDSS works together with an intermediary to administer TEFAP. The CDSS also enters a Memorandums of Understanding (MOUs) with Eligible Recipient Agencies (ERAs) throughout California, in each county in California to serve as a distribution network for TEFAP. The ERAs establish sub-ERAs, also referred to as distribution sites, to disburse the USDA commodities to eligible recipients. The intermediary serves as the operational arm of the TEFAP to order, receive, store, and transport USDA commodities to some of the ERAs in the TEFAP network who are not able to receive shipments directly from USDA.

Section 2: Terms, Definitions and Acronyms

<u>Bill of Lading (BOL)</u>	Primary shipping document that records the delivery, condition, and type of commodities upon receipt of specified commodities.
<u>Charitable Institution</u>	An organization which is public, or is private, possessing tax-exempt status; and is not a penal institution (this exclusion also applies to correctional institutions which conduct rehabilitation programs); and, provides food assistance to needy persons (7 CFR §251.3(b)).
<u>Congregate Feeding Agency</u>	A public or charitable institution (also known as a soup kitchen) that, as an integral part of the normal activities of the institution, maintains an established feeding operation to provide food to needy and homeless persons on a regular basis (7 CFR §251.3(j)).
<u>Consignee</u>	The receiving Eligible Recipient Agency (ERA) to which commodities are shipped, sometimes referred to as the receiver.
<u>Delivery Order (DO)</u>	An order number for a specific commodity designating quantity, delivery period, and destination. Each order is identified by a three-part code that includes the Distributing Agent Number, the alpha code assigned to the delivery period requested, and the sequential order number.
<u>Demurrage</u>	A penalty charge assessed by motor carriers/railroads for cars held by shippers or receivers of freight beyond a specified free time.
<u>Detention</u>	A penalty charge assessed by motor carriers or piggyback companies for detaining equipment beyond a specified free time. Mechanical detention occurs when rail cars are detained beyond a specified free time.
<u>Disaster</u>	Any natural catastrophe which, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused. Any other occasion or instance for which, in the determination of the

President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe (7 CFR §250.2).

Disaster Organizations

Organizations authorized by appropriate Federal or State officials to assist disaster victims (7 CFR §250.2).

Diversion

Occurs when the CDSS submits a request to FNS to deliver the load to a destination other than the one that is listed on the delivery order.

Donated Foods

Foods donated, or available for donation, by USDA (7 CFR §250.2))

Dunnage

Material used to protect or support freight during transit.

Eligible Recipient Agency (ERA)

An organization which –

- 1) is public, or
- 2) is private, possessing tax exempt status and
- 3) is not a penal institution, and
- 4) provides food assistance exclusively to needy persons for household consumption, pursuant to a means test, or predominantly to needy persons in the form of prepared meals,
- 5) and has entered into a written agreement with the state for the receipt of commodities and/or administrative funds, or receives commodities and/or administrative funds under a written agreement with another ERA which has signed a written agreement with the state
- 6) and falls into one of the following categories: emergency feeding organizations (including food banks, food pantries, soup kitchens); charitable institutions (including hospitals, 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); and disaster relief programs (7 CFR §251.3(d)).

Emergency Feeding Organization (EFO)

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. EFOs have priority over ERAs in the distribution of TEFAP commodities (7 CFR §251.3(e)).

Sub-Eligible Recipient Agency (Sub-ERA)

An organization which -

- 1) is either:
 - a. public, or
 - b. private and possesses tax exempt status (7 CFR §251.5 (a)(3)(i)(ii)(iii)(iv)),
- 2) is not a penal institution, and
- 3) has entered into a written agreement with an ERA to distribute USDA commodities without cost to agencies having a written agreement with that ERA, or with the ERA to distribute such commodities to recipients.

Federal Fiscal Year (FFY)

The period of 12 months beginning October 1 of any calendar year and ending September 30 of the following year (7 CFR §250.2(3)).

First In-First out (FIFO)

The first commodities that are received by the ERA are also the first commodities to be issued to the sites for distribution.

Floor Loaded

Commodities that are not on pallets, including slip-sheeted and floor stacked.

Food Bank

A public or charitable institution 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 their normal activities provides meals or food to feed needy persons on a regular basis (7 CFR §251.3(f)).

Food Pantry

A public or private non-profit organization that distributes food to low-income and unemployed households, including food from sources other than USDA, to relieve situations of emergency and distress (7CFR §251.3(g)).

<u>Free Time</u>	The amount of time allowed by the carriers for the loading or unloading of freight before demurrage or detention charges begin to accrue.
<u>Gross Weight</u>	The weight of an article, together with the weight of its container and the material used for packing.
<u>Household</u>	A group of related or non-related individuals, exclusive of boarders, who are not residents of an institution, but who are living as one economic unit and for whom food is customarily purchased and prepared in common. It also means a single individual living alone (7 CFR §250.2).
<u>In-Kind Replacement</u>	Replacement of lost donated foods with a quantity of the same foods of U.S. origin that are of equal or better quality than the lost foods and that are of at least equal monetary value to the USDA's cost of replacing the lost foods (7 CFR §250.2).
<u>Intermediary</u>	A private, non-profit organization that operates under a written agreement with the California Department of Social Services (CDSS). Under the direction of CDSS, the intermediary receives, packages, stores, transports, and/or distributes USDA donated commodities to eligible recipient agencies (ERAs).
<u>Lading</u>	The freight that consists of a load.
<u>Needy Persons</u>	Persons provided service by charitable institutions, who, because of their economic status, are in need of food assistance. All the members of a household who are certified and in need of food assistance, and Disaster Victims (7 CFR §250.2).
<u>Net Weight</u>	The weight of an article, clear of packing and container.
<u>Pallet</u>	A small portable platform for holding material for storage or transportation.
<u>Pallet Exchange</u>	To trade pallets of equal quantity and quality for those delivered with shipment.
<u>Palletize</u>	To place commodities on a pallet.
<u>Piggyback</u>	The transportation of a trailer or container on railroad flat cars.

<u>Pool Car</u>	A rail car loaded, sent to a trans-load, or break-bulk point, and transferred into trucks for final delivery, usually to different locations.
<u>Privately Donated Products</u>	Products that are donated by private individuals and organizations to TEFAP. There are two types: those donated to the state's Donate Don't Dump (DDD) program and those that ERAs obtain through local solicitation efforts.
<u>Recipients</u>	Persons receiving donated foods, or meals containing donated foods, provided by recipient agencies (7 CFR § 250.2).
<u>Seal</u>	A device applied to freight car or motor vehicle door fastening to show that tampering has not taken place between the time of application and fastening, or during the loading process and breakage of seal at the designated place of unloading.
<u>Similar Replacement</u>	Replacement of lost donated foods with a quantity of similar foods of U.S. origin of the same types as those normally donated by the USDA and of at least equal monetary value to the USDA's cost of replacing the lost foods (7 CFR §250.2)
<u>Slip Sheet</u>	Usually a piece of cardboard (may be plastic or another material) used in place of a pallet to handle unitized commodities which is floor loaded with a push/pull attachment.
<u>Soup Kitchen</u>	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 (7CFR §251.3(j)).
<u>Storage Charges</u>	A monthly storage cost assessed to the ERA due to a commodity diversion that result in commodities being stored in other than the ERA's initially designated place of storage.
<u>Tailgate</u>	To move commodities to the back end of the trailer for purposes of unloading.
<u>Tariff</u>	A printed price list by the carrier showing transportation charges and services provided for these charges.

Unitize

To band together and/or stretch or shrink-wrap cartons, cases, or bag goods into a single unit and place on a pallet or platform for shipping.

USDA Commodities

Foods donated or available for donation, by USDA (7 CFR §250.2).

Section 3: Allocations and Transfers of Commodities

(3.1) USDA Funding Formula Applied to States

The amount of federal funding provided to each state is based on a 60/40 formula. The 60/40 formula is derived from 60 percent of the number of persons in households within the state having incomes below the Federal poverty level (based on the most current Census data) and 40 percent of the number of unemployed persons within the state (7 CFR §251.3(h)).

(3.2) CDSS Funding Formula Applied to ERAs

The CDSS will receive a share of federal funding from the USDA. CDSS will allocate funding based on the 60/40 funding formula to each foodbank in the TEFAP network. The funds are calculated based on:

- 60 percent on the number of persons in households within the food bank's distribution area (or county) having incomes below the Federal poverty level and
- 40 percent on the number of unemployed persons within the same county area.

CDSS uses the most current census data for the Federal poverty level and averages of unemployment data obtained from the California Employment Development Department once per year to determine the 60/40 percentages.

(3.3) CDSS Commodity Allocation to ERAs

The USDA commodities must be distributed only to ERAs and distribution sites who are eligible to receive them (7 CFR §251.4(h)).

CDSS allocates its fair share of funds to the ERAs for the purchase of USDA commodities from a commodity list. County shares are calculated based on 60 percent on the number of persons in households within the food bank's county having incomes below the Federal poverty level and 40 percent on the number of unemployed persons within the same county. All commodities are allocated based on the same 60/40 formula (7 CFR §251.3 (h)).

CDSS requires ERAs that receive USDA commodities to apply prudent measures to ensure that the program is run effectively. ERAs must not diminish their normal expenditures for food because of receipt of commodities. (7 CFR §251.4 (b)).

The ERAs are notified by the State of general USDA purchase information at least annually (7 CFR §250.10(a)).

(3.4) USDA Priority System Requirements

Federal regulations contain a priority system in the allocation of USDA food to ERAs. In a presidential declared emergency, food may be diverted to an Emergency Feeding Organization (EFO). An EFO is an ERA that provides food assistance to relieve

situations of emergency and distress to needy persons. EFOs include food banks, food pantries, and soup kitchens. (7 CFR §251.3(e).)

(3.5) Food Bank Commodity Allocation to Distribution Sites

ERAs that have a written agreement with CDSS may only distribute USDA commodities to subcontracted distribution sites (DS), referred to as sub-ERAs that have a written agreement with the ERA.

ERAs are required to provide fair shares of commodities, by type and quantity of item received, to subcontracted distribution sites providing household commodities. ERAs must maintain records to demonstrate that over time there is equity in issuance of commodities among these sites. Each ERA, however, may determine the level of participation in congregate feeding programs based on their individual capabilities.

(3.6) Allocation to Avoid Waste

The USDA commodities must be requested and distributed by CDSS only in quantities that can be consumed without waste (7 CFR §250.10(a)).

The CDSS must ensure that a food bank does not receive commodities in excess of anticipated use, based on inventory records and controls, or in excess of its ability to accept and store such commodities (7 CFR §250.12(b)(c)).

(3.7) USDA Commodity Transfers

All transfers of USDA commodities between like ERAs (i.e., one county food bank to another) must have prior approval from CDSS and must be documented by using the FDU-002, Request for Commodity Transfer form. All transfers of USDA commodities between unlike ERAs (i.e., schools to charitable institutions) must have prior approval from USDA via CDSS and must be documented using the FDU-002 form (7 CFR §250.14 (d), (7 CFR §251.4(g)). After obtaining CDSS approval for transfer of USDA commodities, ERAs must:

- Mutually agree to the method for physical movement of the commodity involved and the responsibility for any charges incurred;
- Notify their consultant to document the transfer activity in Salesforce inventory database under "Adjustment;"
- Document movement of the commodity when it is distributed to eligible recipients.

Section 4: Eligibility Criteria for Eligible Recipient Agencies and Distribution Sites

(4.1) ERAs – Definition and Criteria

An organization is eligible to receive USDA commodities for distribution if they meet the following criteria. The Eligible Recipient Agency (ERA):

- 1) is public, or
- 2) is private, possessing tax-exempt status pursuant to §251.5(a)(3), and
- 3) is not a penal institution, and
- 4) provides food assistance
 - (i) exclusively to needy persons for household consumption, pursuant to a means test established pursuant to §251.5(b), or
 - (ii) predominantly to needy persons in the form of prepared meals pursuant to §251.5(a) (2); and
- 5) has signed a written agreement with CDSS for the receipt of commodities or administrative funds, or receives commodities or administrative funds under a written agreement with another ERA which has signed a written agreement with CDSS; and
- 6) falls into one of the following categories:
 - (i) emergency feeding organizations (food banks, food pantries, soup kitchens);
 - (ii) charitable institutions (hospitals, retirement homes);
 - (iii) 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); or disaster relief programs (7 CFR §251.3(d)).

A food bank must have a CDSS approved inventory control and accountability system in place prior to handling USDA commodities, which must be maintained continuously at all points of commodity receipt and distribution.

The food bank must have a CDSS approved system to ensure that USDA commodities are distributed in accordance with federal and state TEFAP laws, rules, regulations, policies, and procedures.

The CDSS shall consider the past performance of potential ERAs when approving applications for participation (7 CFR §250.4(c)).

(4.2) Tax Exempt Status

Private organizations participating in TEFAP must possess tax exempt status and Internal Revenue Code section 501(c)(3) documentation must be maintained on file.

Organizations that operate exclusively for religious purposes are automatically tax-exempt, per the Internal Revenue Code. USDA does not require these organizations to obtain tax-exempt status to be eligible as an ERA (7 CFR §251.5(a)(3)(iii)).

Organizations that are not organized and operated exclusively for religious purposes are required to obtain tax-exempt status, pursuant to Internal Revenue Code section 501(c)(3). Organizations that have applied for, but not yet obtained, tax-exempt status may participate in TEFAP for 180 days with a possible 90-day extension, if the organization can show good faith in its attempt to obtain tax-exempt status (7 CFR §251.5(a)(3)(iv)).

Organizations can also demonstrate their tax exempt status by confirming that the organization is listed on the IRS Exempt Organization list, <https://www.irs.gov/charities-non-profits/exempt-organizations-select-check>.

(4.3) Distribution Sites

Distribution sites are also considered ERAs and must meet the same eligibility criteria contained in the definition of an ERA (7 CFR §251.3(d)). Federal regulation allows CDSS to delegate to primary ERAs or food banks (those ERAs that have written agreement directly with CDSS) the authority to determine if organizations meet federal and state criteria to receive commodities and administrative funds in order to become distribution sites. ERAs must ensure that their selected distribution sites/sub-ERAs meet the established criteria as outlined above. ERAs, however, are not granted authority to establish eligibility criteria (7 CFR §251.5(c)).

Section 5: Contracts and Agreements

(5.1) Agreement between USDA and CDSS

In California, TEFAP administration is the responsibility of CDSS, which has:

- 1) been designated for such responsibility by the Governor; and
- 2) entered into a written agreement with USDA for such administration.

The CDSS is designated as the state agency responsible for entering into written agreements for receiving, warehousing, and distributing USDA commodities (7 CFR §251.2(b)).

(5.2) Agreements between CDSS and ERAs

The CDSS establishes written agreements with public and private non-profit agencies or organizations to function as a distribution network for USDA commodities and local TEFAP donations to program-eligible recipients. ERAs sign a standardized written agreement with CDSS that authorizes them to receive and distribute USDA commodities.

The CDSS must have a current written agreement with the ERA to receive USDA commodities and/or administrative funds. Written agreements are considered ongoing (with amendments) but may be terminated by either party with a 30-day written notice (7 CFR §251.2(c)(2)).

A written agreement between CDSS and the ERA must include:

- A statement that the food bank agrees to operate in accordance with requirements of Title 7 CFR Parts § 250 and §251;
- The name and address of the food bank receiving commodities and/or administrative funds (7 CFR §251.2(d)(1)(ii));
- Specific identification of each function for which the food bank is responsible when CDSS delegates responsibilities to the food bank that are normally the responsibility of CDSS, and a written requirement that food bank perform these functions in accordance with Title 7 CFR Parts §250 and §251;
- Specific terms and conditions for the food bank to distribute food and/or administrative funds to a sub-distribution site, when CDSS allows them to do so, along with a list of specific organizations or types of organizations eligible to receive food or funds (7 CFR §251.2(d)(2)(ii)).
- An assurance that the ERA agrees to comply with all requirements relating to food safety and food recalls. §250.4(c)(2)
- An assurance that the ERA agrees to comply with the USDA's nondiscrimination regulations (7 CFR parts 15, 15a, and 15b) and the FNS civil rights instructions to ensure that in the operation of the program no person is discriminated against because of race, color, national origin, age, sex or handicap (7 CFR 250.21).

The ERAs must provide, on a timely basis, by amendment to the written agreement, any changed information, including, but not limited to any changes resulting from amendments to federal regulatory requirements and policy (7 CFR §251.2). For example, an amendment to the written agreement is required if the ERA has a change in items such as: name or physical location.

(5.3) Agreements between ERAs

The ERAs who have written agreements directly with CDSS are authorized to enter into written agreements with other organizations to perform TEFAP functions in accordance with requirements of Title 7 CFR §250 and §251. The ERAs that have an existing written agreement with CDSS are required to enter into written agreements with distribution sites (DS) or commonly referred to as “sub-ERAs.” The ERAs must have written agreements with their DS before a DS may receive USDA commodities (7 CFR §251.2(c)(2))

An ERA may elect to enter into a written agreement for all or part of its TEFAP storage and distribution services.

A written agreement between an ERA and sub-ERA must include:

- Language from TEFAP USDA Commodity Food Agreement form, also known as the Site Agreement form;
- A statement that the sub-ERA agrees to operate in accordance with requirements of Title 7 CFR Parts §250 and §251;
- The name and address of the sub-ERA receiving commodities;
- Signature of the ERA representative and DS representative and date;
- 30-day termination clause;
- A statement that the sub-ERA agrees to the right of the ERA, USDA, and TEFAP to visit and inspect;
- An assurance that the ERA agrees to comply with the USDA’s nondiscrimination regulations (7 CFR parts 15, 15a, and 15b) and the FNS civil rights instructions to ensure that in the operation of the program no person is discriminated against because of race, color, national origin, age, sex or handicap (7 CFR 250.21).

The ERAs that have written agreements directly with CDSS are responsible for ensuring that their sub agreement distribution sites meet all federal and state program requirements. The ERA is not relieved of any program responsibility by entering into a written agreement with a DS. Instead, the ERA becomes responsible for the actions of the sub-ERAs. At the same time, sub-ERAs are not relieved of the responsibility of their written agreement with the ERAs.

ERAs that store foods at a facility that has a written agreement with CDSS (i.e. dry and/or cold storage) are required to have a written agreement with the facility to ensure that the facility will be in compliance with all of the applicable requirements in this section regarding the storage and inventory management of donated foods (Title 7 CFR Parts §250.14(e)).

(5.4) Transfer of Responsibility to a New Food Bank

The following procedures apply to any change or transfer of ERA responsibility:

- A request for transfer or termination of a written agreement may originate with either party.
- The CDSS will review and approve or deny the change or transfer.
- For approved transfers of ERA responsibility, the first consideration will be the provision of continuity of service to recipients to the extent possible. Since written agreements are considered ongoing with a 30-day notice provision, CDSS may request that the existing written agreement remain in operation until a written agreement with a new ERA is signed.
- In situations where CDSS deems it to be in the program's best interest, CDSS may provide a 30-day notice of termination of a written agreement to the ERA.
- Any new ERA must have a signed a written agreement with CDSS in order to receive USDA commodities (7 CFR §251.2).
- The new ERA's starting inventory records must reflect an opening balance of zero. Quantities received by the new ERA on transfer of title must be approved by CDSS and have backup documentation from the transferred ERA to include verified physical tallies.
- The CDSS shall conduct a final accounting of inventory before an official transfer of commodities may take place.

Section 6: Eligibility Criteria for Recipients

(6.1) CDSS Responsibility

The CDSS has established uniform statewide criteria for determining the eligibility of households to receive commodities for home consumption. One person from each household may receive commodities if they meet criteria, which include:

- 1) Income-based standards and the methods by which households may demonstrate eligibility under these standards (7 CFR §251.5(b)(2)); and residency.

(6.2) ERA Responsibility

ERAs must only distribute commodities to households which meet the eligibility criteria established by CDSS (7 CFR §251.5(a)(1)).

The CDSS must impose upon ERAs the responsibility for determining that recipients to whom ERAs distribute USDA commodities are eligible (7 CFR §251.5(c)).

(6.3) Recipient Income-eligibility Criteria

For a recipient or household to be eligible for USDA commodities, their income must fall within the guidelines listed on the TEFAP Income Eligibility chart. The current TEFAP Income Eligibility is based on 235 percent of the federal poverty income guidelines, which is established according to the number of persons in the household. Homeless individuals are subject to the same income requirement.

Recipients are only required to self-certify that they are within the TEFAP income guidelines through their signature on the EFA-7 Certification of Eligibility. **Recipients may not be asked to supply proof of income.**

The following should not be considered part of a recipient's income:

- Student aid assistance received from a program funded by Title IV;
- Employer or union-paid non-cash benefits, such as health insurance, food, or rent received in lieu of wages, etc.;
- Value of non-cash benefit programs such as Medicare, Medicaid, CalFresh benefits, school lunches, housing assistance, etc.

Household eligibility may be determined on either monthly or annual income; it is not necessary to qualify on both. Eligibility may occur during any month that the recipient meets the TEFAP income guidelines. Eligibility may also occur based on annual income, even if the current month's earnings exceed the monthly income guideline.

(6.4) Recipient Residency Criteria

For a recipient or household to be eligible for USDA commodities, they must reside in the geographical area being served at the time of applying for assistance, regardless of length of residency (7 CFR §251.5(b)(3)). Recipients are not required to provide documentation of residency to receive food. **If documented proof of residency cannot be supplied, food may not be denied to the recipient if they agree to sign the EFA-7.**

A recipient who lives in the county, but outside of the distribution area may receive commodities; however, the client should be advised of a site in their own area to pick up commodities from in the future.

(6.5) Picking up Commodities for Others

A distribution site may allow an alternate person to pick up commodities for an eligible recipient in their absence. The alternate person must bring an Alternate Pick-up form signed by the eligible recipient to authorize the pick-up.

[\(<http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>\)](http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures)

The alternate person must write the recipient's name, as well as his or her own name, on the EFA-7.

If an alternate person does not bring the Alternate Pick-up form to the site, a note from the recipient authorizing the pick-up will suffice. The note must include the following:

- Date
- Statement authorizing the pick-up of commodities by the alternate person
- Alternate person's name
- Statement that the recipient is income eligible
- Recipient's signature, address, and household size

The distribution site must attach Alternate Pick-Up forms and notes to the EFA-7s to be maintained on file. Recipients are required to provide a new Alternate Pick-up form or note for each distribution, and limit of five (5) alternate pick-up forms may be presented at one time by one alternate person chosen by the recipient to pick up commodities.

(6.6) Congregate Feeding Agency Recipient Criteria

Congregate feeding sites providing prepared meals, must demonstrate to CDSS or the ERA that has a written agreement with CDSS that they serve predominantly needy persons. The CDSS may require a higher standard than "predominantly" and may determine whether organizations meet the applicable standard by considering socioeconomic data of the area in which the organization is located or from which it draws its clientele (7 CFR §251.5(a)(2)).

The congregate feeding sites may serve meals that contain USDA commodities to non-eligible people. This is allowable only when the non-eligible people share common preparation, serving, or dining facilities with eligible people.

Section 7: Distribution Guidelines and Procedures

(7.1) Frequency and Rate of Distribution

ERAs shall attempt to serve at a minimum 25 percent of their 60/40 target population monthly and may use their discretion in deciding the location and number of distributions necessary per month to avoid service gaps or overlaps. However, all distribution sites must distribute at **least once per month**, unless extenuating circumstances are present and prior, written approval from CDSS is obtained.

ERAs must meet the following criteria for distribution of USDA commodities:

- To the extent that is reasonably possible, income eligible recipients should have equal **access** to receiving the same amount of USDA commodities. Though each recipient may not actually **receive** the same amount of food due to visiting distribution sites at different times and/or days, ERAs must ensure that each recipient has equal **access** to the extent possible, to the same amount of food (TEFAP Policy Notice 00-01).
- The ERAs, whenever possible, shall distribute USDA commodities in fair share proportions by household size. For example, a household of seven must receive the same amount of food as another household of seven, regardless of whether they are going to a distribution site that distributes USDA commodities to them more than once per month or one that distributes only once per month. This policy pertains to all distribution sites in the ERA's defined service area (TEFAP Policy Notice 00-01).

(7.2) Closed Distribution Sites

The TEFAP distribution sites must be open to the general (eligible) population. Sites that limit participation or attendance to only its recipients may not distribute USDA commodities. However, under certain circumstances, such as when health and safety issues are present, a closed distribution may be allowed to operate with prior written approval from CDSS. An ERA must request approval to operate a closed site from CDSS and may not operate it until approved (*See TEFAP Policy Notice 05-01*).

The ERA must submit a written request to operate a site as a Closed Distribution Site to CDSS and include the following information:

- Name of the distribution site
- Population served
- Days/Hours of operation
- Why this site should be designated as a closed site
- Alternate distribution site location

(7.3) Site Distribution Procedures

The ERA must ensure that distribution site information is always accurate and available to the public. The distribution schedule must include the distribution site name, address, beginning and end times of the distribution, as well as a contact telephone number.

All distribution sites must distribute food according to the date and time communicated to the public, and according to the distribution schedule. If a distribution site distributes all its food before the advertised end time, a site representative **must remain** on site to inform recipients of their options. Site representatives may refer recipients to another distribution site or to the food bank for assistance. Distribution sites must then inform the ERA that additional food should be sent in the future to avoid running out.

Under no circumstances shall recipients be required to make any type of payment in money, materials, or services of any kind in connection with the receipt of USDA commodities; nor shall voluntary contributions be solicited in connection with the receipt as a condition of receiving USDA commodities for any purpose.

Distribution sites may not place donation cans anywhere on the premises during a USDA distribution.

Changes in the location of TEFAP distributions, times of service, or any significant program changes, as transmitted to the CDSS by the ERA, must be transmitted to the sub-ERA and their recipients in a timely manner. This can be done through media advertising, public service announcements, or directly to individuals by the distribution sites and/or the ERA.

Likewise, any changes in the location of TEFAP distributions, times of service, or any significant program changes, **as initiated by the distribution site**, must be transmitted to the ERA, and recipients must be notified prior to the next distribution date.

(7.4) TEFAP Distribution in Conjunction with Other Programs

The USDA commodities may be distributed simultaneously with Brown Bag or other programs if:

- The distribution site is open to the public and not limited to specific individuals, and
- No money is being requested for the food (TEFAP Policy Notice 00-01 (1/18)).

If a distribution site has additional programs to offer to recipients, or wishes to collect demographic information from recipients, they must be offered USDA food first and given the choice to participate in the other services available or complete additional paperwork. It must be made clear that participation in other programs or supplying personal information is not a requirement to receive USDA food.

A few examples are:

- Post a sign, posted within sight of the EFA-7 sign in sheet, stating that TEFAP only recipients may bypass the intake process and only needs to sign the EFA-7 form
- Have a statement in (or attached to) their intake form stating that it only needs to be completed if they are interested in the available programs aside from TEFAP

(7.5) Required Documents at Distribution Sites

The following items must be posted at each distribution site in clear view of all TEFAP recipients:

- The Emergency Food Assistance Program (TEFAP) Certification of Eligibility (EFA-7)
- The TEFAP Income Guidelines must be posted next to the EFA-7 signature document.
- The “And Justice for All Poster”

For religious organizations, “The Emergency Food Assistance Program (TEFAP) Written Notice of Beneficiary Rights”, must be posted.

All recipients who self-certify that their household meets the state’s income guidelines and has residency in the state as of the date of the application shall be deemed program eligible.

(7.6) The Emergency Food Assistance Program (TEFAP) Eligibility Certification (EFA-7) Form

The original EFA-7 form must be collected and maintained for 3 years plus the current year, either at the ERA or sub-ERA. The EFA-7 contains the following information pertinent to each household receiving USDA commodities for household consumption (7 CFR 251.10(a)(3)):

- The address and zip code of the household, to the extent possible. P.O. Box numbers are adequate for rural areas. If the recipient is homeless, the nearest cross-streets of the recipient’s most recent habitat or indicate on the EFA-7 that the recipient is homeless.
- The number of persons in the household.
- The Yes and No column on the form may be used to provide unduplicated numbers of people and households served each month.
- There is one EFA-7 form available for use. All distribution sites must use the most current EFA-7 version. (<http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>) or contact your TEFAP Program Consultant for the EFA-7 form.

(7.7) Unrelated Activity

The TEFAP recipients must not be pressured or influenced to support any religious, social, or political point of view in association with the receipt of USDA commodities.

Unrelated activity may be conducted at distribution sites if:

- The person conducting the activity makes it clear that the activity is not part of TEFAP and is not endorsed by the USDA;
- Information not related to TEFAP is not placed in or printed on TEFAP distribution containers;
- The person conducting the activity makes it clear that cooperation is not a condition of receiving USDA commodities, (e.g., attending religious services, contributing money, signing petitions, or conversing with the people);
- The activity does not disrupt distribution of USDA commodities.

The ERA and sub-ERA personnel are responsible for ensuring that activities unrelated to the distribution of USDA commodities are conducted in a manner consistent with the above conditions (7 CFR §251.10(f)(1)(i)(ii)(iii)).

Federal, state, or local government program material may be deemed related to TEFAP, if it is directed toward services for the needy.

(7.8) Civil Rights

In accordance with the federal and state law and USDA policy (No. FD-113), there must be no discrimination in the distribution of USDA commodities under this part because of race, color, national origin, sex, age, or handicap (7 CFR §251.10(c)). ERAs must comply with the USDA's nondiscrimination [regulations](#) (7 CFR parts [15](#), [15a](#), and [15b](#)) and the [FNS](#) civil rights instructions to ensure that in the operation of the [program](#) no [person](#) is discriminated against on these protected bases (7 CFR §250.5).

All ERAs and Sub-ERAs must offer a mandatory annual civil rights training for staff delivering services and all complaints must be researched and responded to by the ERA in accordance with federal regulation. CDSS requires the complaint to be forwarded to the TEFAP Consultant to work out a resolution with the ERAs for a corrective action plan and for proper logging. A program discrimination complaint form can be obtained by sending an email to [SM.OASCR.Info](#). Or the program discrimination complaint can be filed by writing a letter to the Center for Civil Rights Enforcement at the address below:

U.S. Department of Agriculture
Director, Center for Civil Rights Enforcement
1400 Independence Avenue, SW
Washington, DC 20250-9410

The ERAs and Sub-ERAs have a responsibility to take reasonable steps to ensure meaningful access to their program information and services by persons with Limited English Proficiency (LEP).

These services may include:

- Providing interpreters
- Providing printed materials in different languages
- Bilingual staff should be provided as available or staff members could use printed materials with commonly used phrases. The DS should contact the Food Bank for additional guidance in these areas.

CDSS has provided a webinar and checklist for Civil Rights training. The webinar link, checklists, certificate of completions, and policy notices are available at <http://www.cdss.ca.gov/inforesources/EFAP/Policies-and-Notices>

ERAs program staff, front-line and non-front-line staff must complete the civil rights training by using the webinar link, checklist, certificate of completions as stated above. Civil Rights training must be updated **once every calendar year** and proof of the training (completed certificate or sign in sheet must be maintained at the ERA or Sub-ERA for three years plus the current year of the Civil Rights training.

Section 8: Ordering and Receiving USDA Commodities

(8.1) USDA Foods Shipments

The USDA foods are shipped to ERAs by one of two methods:

- 1) directly shipped from USDA, or
- 2) indirectly shipped through an intermediary

The ERAs may receive direct-shipped foods from USDA if they order at least one third of a truckload of a given food. For those ERAs that are not capable of receiving at least one third of a truckload, they will receive indirect shipped foods from the intermediary. In these instances, the full truckloads are direct shipped from USDA to the intermediary where they are divided, organized, and delivered to each ERA by the intermediary. This process is referred to as breaking bulk. All shipments and receipts of USDA Foods are determined by following the guidelines of the current FNS Instruction 709-5.

(8.2) USDA Commodity Orders

Several times throughout the year (and based on USDA food offerings) CDSS and the intermediary will communicate with ERAs about food orders through telephone and email. CDSS and the intermediary will request input from the ERAs regarding their choice for USDA foods using a food ordering request form. The ERAs will receive a food dollar allocation which is based on the 60/40 formula and the ERA's will use this allocation when choosing their foods. ERAs should spend their funds responsibly and should consider the nutritional value and needs of their community.

The ERAs must ensure that they return their completed order to CDSS and the intermediary on or before the required due date. Failure to do so may result in food choices made on behalf of the ERA.

CDSS and the intermediary will attempt to accommodate the ERA's product choice. However, to accommodate the USDA direct-ship process and based on product availability, an ERA's order may be adjusted or changed. ERAs will be notified of their orders.

If a USDA direct shipment must be diverted by the ERA to another location other than the one listed as the original destination point, the ERA is responsible for any resulting charges, including storage and diversion charges. For further instructions please refer to Section 8.6 Contract Modifications below.

(8.3) USDA Distribution Schedules

CDSS requires the intermediary to provide reliable and equitable deliveries to ERAs, considering their local hours of operation, holidays and vacations, and, whenever possible, other special needs of ERAs will be followed in accordance with (7 CFR §250.13).

Distributions schedules of direct USDA shipments are at times sent to ERAs 30 days in advance of the first delivery of the quarter. Additional distribution schedules will be sent as orders are placed and confirmed with USDA. ERAs receiving their commodities from the intermediary will be notified monthly of the commodities available for delivery.

The ERAs are notified of general USDA purchase information, anticipated delivery schedule with types and quantities (at least quarterly), and changes in delivery schedules (7 CFR §250.13).

Commodities may be delivered to ERAs less frequently than monthly when monthly service is not cost effective due to distance, size of delivery, or situational reasons such as weather conditions (7 CFR §250.13).

(8.4) USDA Delivery Notification

Depending on the type of shipment, USDA or the intermediary must notify the ERA of pending deliveries at least 72 hours prior to delivery. The delivery time set will be a two-hour window to allow for any unforeseen delays. ERAs should make a concerted effort to off-load commodities as soon as the carrier arrives so that subsequent deliveries may be made as scheduled (EFAP Policy Notice 00-03).

Delivery appointments are scheduled in order to make receiving commodities more efficient. ERAs are required to schedule delivery appointments, which gives them the opportunity to choose a time in which they will be prepared to, unload, check, and be fully accountable for the delivery.

(8.5) Delivery Charges

Direct shipments from USDA are provided via commercial carriers and freight is prepaid. ERAs must not pay any charges requested by the driver or vendor. ERAs must notify CDSS immediately if payment of any kind is requested (EFAP Policy Notice 00-03). Charges for redelivery or diversion may not be claimed as an TEFAP expense.

(8.6) Contract Modification Requests

An ERA is responsible for all scheduled USDA deliveries and may not refuse shipments that have been previously ordered. An ERA must notify their assigned CDSS Program Consultant of any change in receiving location immediately, and at least 45 days before the beginning of the delivery period. An ERA must follow the instructions in the current FNS Instruction 709-5 (Shipment and Receipt of USDA Foods). If an ERA no longer

wants a USDA direct shipment, the intermediary under the direction of CDSS, will attempt to find another food bank that is willing to accept the refused shipment.

(8.7) Inspecting The Shipment

An ERA is responsible for the inventory of USDA commodities at the time the commodities arrive at the ERA's warehouse or alternate storage facility. The ERA must first carefully check the seal on the truck to ensure it has not been removed or tampered with. If the seal is broken or lacking, or the serial number on the seal does not match the number on supporting documentation (e.g., BOL), the ERA must refuse the shipment, including split shipments, and immediately notify CDSS, which must in turn notify the USDA. Trucks coming from the intermediary for indirect shipments are not required to have a seal.

During the unloading of the commodities, the ERA must ensure:

- complete delivery is made, and
- it is in good condition, and
- any overage, shortage, or damage is properly reported.

During a delivery, one must:

- count the amount of the commodities in the delivery,
- check the condition and temperature of the truck and commodities, and
- note this information on the BOL.

When necessary, a Commodity Receipt Report – Problem Load (CRR) may need to be filled out. In the case of a problem load, immediately contact your CDSS Program Consultant and return the CRR. **Failure to do so may result in an ERA being held liable for out-of-condition commodities, even though the damage may have occurred during shipment.**

When the driver arrives with USDA commodities, and before the driver leaves, the ERA must:

- 1) Inspect each shipment carefully as soon as possible after placement for unloading to determine its count and condition.
- 2) Record the following items: trucking company name and truck trailer number; the condition and serial numbers of the seal(s) on the door(s) of the truck or trailer container; the location where the shipment was unloaded, and the temperature of a temperature-controlled truck or trailer.
- 3) Sign and date the BOL to acknowledge receipt of all items physically received. **Do not sign or initial the BOL before determining whether there is damage to and/or whether there is a shortage or overage of the delivery.** Any discrepancies must be noted on all available copies of the BOL before the delivery vehicle is released. Once the BOL is signed, the ERA is responsible for

the USDA commodities. The ERA is considered responsible for the condition and number of commodities.

Once the shipment has been inspected and received, the ERA must send the BOL, by email to bol@calfoods.org, within 24 hours of delivery to the intermediary to be receipted. All BOLs from ERAs that receive direct shipment from USDA are required to be receipted within 48 hours. Documentation must include:

- Sales Order Number
- An account of over short or damaged product at the time of receipt
- The quantity received in good condition

For additional information regarding Receipting Shipments refer to the National Policy Memorandum FD-062 and the current FNS Instruction 709-5.

(8.8) Destination Changes

The ERAs must immediately notify their Program Consultant of any changes in the shipping destination after the order is in “purchased” status in WBSCM at least 45 days prior to the beginning of the scheduled shipping period. The Program Consultant will in turn notify USDA of the change following the current FNS Instruction 709-5.

(8.9) Unloading The Shipment

The ERAs are responsible for unloading the shipment of USDA Foods and for removing and disposing of dunnage and other debris. The USDA allows up to two (2) hours free time to unload full and split palletized loads from trucks. For non-palletized loads, free time is up to six (6) hours following the current FNS Instructions FNS 709-5. Failure to complete the unloading within the free time, the ERAs might incur a demurrage or detention charge. For further information regarding to unloading the USDA Foods, please refer to the current FNS Instruction FNS 709-5.

(8.10) Detention Records

In the case where a truck is detained either due to the driver or due to the ERA, the following records must be maintained by the ERA:

- Commodity identification;
- Delivery order number, contract number, or notice of delivery number;
- Name of truck driver;
- Truck, trailer number, or license plate number;
- Date and time unloading began;
- Date and time unloading were completed;
- Date and time vehicle were released for departure by the ERA;
- Total gross weight of freight unloaded;
- Date and time agreed upon for arrival of the truck if delivery was made under a prearranged schedule.

(8.11) Undeliverable USDA Foods

Following the current FNS Instruction 709-5, when upon delivery all or a significant portion of a shipment appears to be off-grade, out-of-condition, or damaged, the ERA must do the following:

- 1) Call CDSS **BEFORE** accepting the shipment to report the facts of the condition of the shipment and to receive disposal instructions from CDSS.
- 2) If directed by CDSS, obtain an inspection by a qualified person.
- 3) If the findings of the inspection confirm those of the initial examination, hold the shipment and report the full details immediately to CDSS by telephone.
- 4) Complete a CRR with the following information:
 - Delivery order number, contract number, and notice of delivery number;
 - Railcar number and initial, piggyback trailer number, or truck/trailer identification;
 - Name of shipper, origin, and date of shipment;
 - Quantity and description of food in the shipment;
 - Date and time shipment received;
 - Specifically, the problem and the quantity affected;
 - Status (unloaded, trailer left warehouse, etc.);
 - Cause of condition, only if the cause is obvious (i.e., damaged container, fire, temperature unit not operating, etc.);
 - Protective services provided;
 - Name, title, and phone number of the person who made the inspection. Note if inspection report was prepared. If so, forward a copy of report with CRR;
 - Name and location of carrier's agent who was notified along with the agent's response, including the time and date, and name of person making the notification;
 - Specific location within the transportation conveyance;
 - Person and phone number to contact regarding shipment.
- 5) Immediately email or fax the CRR to CDSS and await instructions for disposal and the possible replacement of the load.
- 6) Note on bill of lading a brief description of the problem, referencing the CRR for full documentation.

(8.12) Quantity of USDA Foods

When a shipment is delivered where it is determined that there is a shortage or overage, the ERA must do the following:

- 1) The ERA must conduct a thorough count as the shipment is unloaded and **prior** to the vendor or carrier departing.
- 2) Contact your CDSS Program Consultant immediately.
- 3) Record on the bill of lading the exact amount of the commodity shortage or overage.
- 4) Complete a CRR with the following information:
 - Delivery order number, contract number, and Notice of Delivery number;
 - Truck/trailer identification;
 - Name of shipper, origin, and date of shipment;
 - Over or short quantity.
 - Date and time shipment received;
 - Name, title, and phone number of persons who made the inspection. Note if inspection report was prepared. If so, forward a copy of report with CRR;
 - Person and phone number to contact regarding shipment.
- 5) Email CRR – Problem Load immediately to CDSS to await instructions for rectification and/or possible replacement.

The ERAs claiming an overage, shortage, or damage in a shipment are required to send a CRR to CDSS. Since damage or shortage cannot be determined from outside the carrier, unloading documentation and seal records must always be maintained by all stop-off ERAs. This documentation is required to support a claim for loss.

(8.13) Replacement

The USDA may replace USDA commodities received by ERAs when CDSS documents that the commodities were received out-of-condition, or not in compliance with USDA specifications at the time USDA delivered them (7 CFR §250.11(c)).

(8.14) Split Shipments

A split shipment is a single truckload with more than one delivery destination scheduled. If a split shipment is made in a temperature-controlled car, the stop-off ERA(s) must make sure that the refrigeration remains turned on during unloading and is on before the truck proceeds to the next destination. **Temperature at time of arrival and time of**

departure must be recorded. The stop-off ERA is responsible for resealing the truck. ERAs must place and record seals on the outbound shipment from the stop-off point.

When shortages in split shipments are reported at a final destination only, the stop-off ERA must provide CDSS with proof of the following information before the truck leaves their facility:

- Quantity – unloading documentation or a statement supporting the unloaded quantity reported;
- Seals – complete inbound and outbound seal numbers;
- Location – where unloading was performed;
- Protection and supervision – protection and supervision given to the carrier during unloading.

Section 9 Local Donations

Local donations may be distributed with USDA commodities or distributed separately (7 CFR §251.4(i)). However, if the donated foods are distributed with USDA commodities, then all guidelines and procedures outlined for the distribution of USDA commodities must be followed in the distribution of these products. (See *Section 7: Distribution Guidelines and Procedures for further information.*)

Section 10 Storage

(10.1) Federal Regulatory Storage Requirements

The ERAs and distribution sites must provide facilities for the handling, storage, and distribution of USDA commodities which (7 CFR §250.12):

- Are sanitary and free from rodent, bird, insect and other animal infestation;
- Safeguard against theft, spoilage and other loss;
- Maintain foods at proper storage temperatures;
- Stock and space foods in a manner so that USDA commodities are readily identified;
- Store USDA commodities off the floor and away from walls in a manner to allow for adequate ventilation; and
- Take other protective measures as necessary.

The CDSS and ERAs must ensure that storage facilities have current health inspections and approvals as required by Federal, state, and local regulations. ERAs should check within their county for required inspections and approvals (7 CFR 250.12(f)(2)). ERAs may be asked to provide health inspection and/or pest control certificates/reports during CDSS Compliance Reviews.

(10.2) Specific Storage Requirements

The ERAs must adhere to the following storage requirements (7 CFR §250.12(a)):

- All food must be stored, transported, and served to be pure, free from contamination, adulteration and spoilage, and protected from vermin;
- Food facilities must always be so constructed, equipped, maintained, and operated as to prevent the entrance of vermin, rodents, insects, etc.; and
- Food facilities must be kept clean and free of litter, rubbish, contaminants, pollutants, etc.

Additionally:

- Food must be stored under climate-controlled conditions in accordance with guidelines printed and distributed by CDSS ([“Best If Used By” Guide](#));
- If there are USDA commodities in the refrigerator/freezer, a temperature log must be kept for the days the ERA is open;
- Food must be placed 6 inches away from walls, dividers, or other barriers to permit proper air flow around stacks of cases, bags, sacks, or other containers. Additional spacing may be allowed to provide access to product;
- When not palletized, food must be stored off the floor on shelves, racks, or 2” X 4” s;
- All food products must be stored away from non-food items that may contaminate food, such as cleaning products, insecticides, rat poison, etc.;
- The ERAs must have proactive pest control procedures;

- The ERAs must implement a system of stock rotation that assures the oldest stock is issued to recipients before more recent stock is issued. This is referred to as first-in-first-out (FIFO); and
- The ERAs must implement an inventory procedure to check physical count and condition for all movement of USDA commodities in and out of storage locations on a monthly basis.

The ERAs must comply with all Storage and Inventory Management requirements outlined in 7 CFR §250.12.

(10.3) Storage Facilities Reviews

The ERAs must conduct at least one review of its storage facilities annually. In the annual review of storage facilities, the ERAs must:

- Include a physical inventory, which must be reconciled with the storage facility's inventory records and maintained on file with the contracting agency or ERA;
- Identify and report to CDSS food items that are lost, stolen, or out-of-condition;
- Report to CDSS potential excessive inventory (7 CFR §250.12(b))
- Maintain proof of insurance to cover the fair market value of the stored USDA commodity items (7 CFR §250.12(d));
- Maintain documentation at CDSS or local agency to reflect compliance with Federal and CDSS rules and regulations, including documentation of corrective action in the case of non-compliance (7 CFR §250.19); and
- If a need for corrective action is determined, corrective action should be taken immediately, with result of the corrective action forwarded to CDSS.

(10.4) Commercial Storage Facilities Contracts

The ERAs must have written contracts with all storage facilities, food processors, carriers, and other entities that deal with USDA commodities (7 CFR §250.12(f)).

Contracts for commercial storage facilities must include all necessary provisions listed in 7 CFR §250.12(f). These contracts shall be effective for five years, including option years to extend the contract. Contracts shall be reviewed and updated by CDSS when ERAs request to add new ship to locations. Before exercising option years after the fifth year, the storage facility must update all pertinent information and demonstrate that all USDA commodities received during the previous contract period have been accounted for and all other contract provisions have been fulfilled (7 CFR §250.12(f) (7)).

Section 11 Inventory

(11.1) Inventory Reviews

The ERAs and their sub-ERAs must review their USDA commodity storage facilities, including contracted commercial storage, at least annually. Annual reviews by CDSS will include a physical inventory, which must be reconciled with the book inventory (7 CFR §250.12(b)).

(11.2) Physical Inventory

The physical movement (receipt and distribution) of commodities at ERA and their sub-ERAs location sites must be accurately documented. ERA inventory record figures and the CDMS inventory database “Ending Balance” figures must be fully supported by documents to account for inventory movement. Physical inventory figures are to be compared to the corresponding CDMS inventory database “Ending Balance” figures and any differences reconciled. Out of condition commodities must be also identified during the physical inventory process (7 CFR §250.12(b)).

Corrective action must be immediately initiated if there are any deficiencies and a corrective action report sent to CDSS (7 CFR §250.22(b)). Corrective action reports must include:

- Each commodity’s Federal commodity code number and description;
- Each commodity’s physical inventory variance from the book balance;
- Inventory reconciliation procedures utilized;
- How/why the difference(s)/out-of-condition occurred; and
- Corrective actions taken to prevent a reoccurrence.

(11.3) Excessive Inventory

In no case, may the inventory level of any one commodity in storage exceed a six-month supply unless the ERA submits justification and obtains CDSS and USDA approval (7 CFR §250.12(c)(1)).

The CDSS shall determine if the ERA’s inventory is excessive based on the rate of distribution, anticipated distribution, and other considerations (7 CFR §250.12(c)(1)).

An inventory could be considered excessive whenever the total commodities on-hand exceed the following supply level:

- **Food Bank** – six months (6) by federal regulations
- **Distribution Site:**
 - two (2) weeks (distributing weekly)
 - one (1) month (distributing less than weekly but more than one (1) time per month)
 - two (2) months (distributing only one (1) time per month)

The CDSS may make allowances under special circumstances (e.g., weather conditions or remote location) for inventory on hand exceeding the above levels.

The CDSS shall take corrective action to ensure that excess inventory at all levels are eliminated, unless otherwise authorized, and shall document actions taken (7 CFR §250.21(c)).

Section 12: USDA Foods Loss

All USDA commodities shall be safeguarded to the best of the ERA's and Sub-ERA's abilities from theft, spoilage, damage, destruction or other loss. CDSS and ERAs will investigate any and all loss of USDA donated food. CDSS may pursue claims when the loss is valued at \$500 or less, if the loss was preventable (i.e. spoilage due to improper storage). CDSS will pursue claims, as necessary, including negligence or improper use, for losses valued more than \$500 and/or a bad actor is involved (i.e. theft, embezzlement, etc.). All losses of \$100,000 or more will be sent to USDA FNS Headquarters to be involved in the claim determination, as applicable. For additional USDA guidelines please review 7 CFR part 250 and 251, the current FNS 410-1, and related FNS policies.

(12.1) Discovery of a USDA Foods Loss

Upon discovery of a loss of USDA foods, the ERA must:

- 1) Notify CDSS immediately;
- 2) Investigate the loss to determine extent of loss, likely cause, and possible responsible parties; and
- 3) Maintain damaged/spoiled food in stable condition until it can be inspected (e.g., if commodity is cold or frozen product, isolate and keep frozen.) Upon discovery, please physically separate spoiled or damaged food from other food inventories as quickly and as completely as possible. Do not dispose of spoiled or damaged product until told to do so by the CDSS.

(12.2) USDA Foods Loss with a Bad Actor

The ERAs must provide facilities for USDA commodities that are safe against theft and other loss (7 CFR §250.12(a)). To prevent loss due to theft or vandalism, it is important that storage areas be secured.

The ERAs must implement procedures and controls to meet security needs according to the accessibility and design of the storage facilities. Control procedures must be open and visible to the public and staff.

If the loss of USDA foods is a result of a bad actor (i.e. theft, embezzlement, willful misapplication, or fraud) then the loss must be reported to CDSS regardless of the value of the loss. Upon discovery of such a loss, the ERA must:

- 1) If the loss is the result of a crime (i.e. theft), immediately file a police report and obtain a copy of the report;

- 2) Complete a [Commodity Loss Report \(FDU-001\)](#), providing as much detail as possible; and
- 3) Email the completed FDU-001 and a copy of the police report (if applicable) to the ERA's CDSS Program Consultant.

(12.3) USDA Foods Loss Valued Over \$500 with No Bad Actor

If the ERA discovers a loss of USDA foods has occurred where there is no bad actor (i.e. not a result of theft, etc. but possibly the result of negligence) the ERA must determine if the value of the lost foods is over \$500. In establishing the value of the USDA foods lost, the ERA must use the USDA purchase price of the food at the time the loss occurred.

If the value of the discovered loss exceeds \$500, the ERA must complete the FDU-001 form in as much detail as possible and email the completed form to their CDSS Program Representative.

(12.3) Claim Determination

Upon receiving information of a commodity loss by an ERA, CDSS must take immediate action to determine if, in fact, a loss did occur, who the responsible party is, the circumstance surrounding the loss, and the value of commodities involved with the loss.

If the loss is between \$500.00 and \$100,000.00 or results from the actions of a bad actor, CDSS will establish a claim in accordance with current FNS Instruction 410-1. CDSS will also notify the FNS Regional Office of such a loss.

If the loss is greater than \$100,000.00, the FNS Regional Office will inform FNS Headquarters and USDA will review the loss in accordance with the standards and procedures in FNS Instruction 410-1 as applicable.

(12.4) Replacement by ERA

If it is determined that the ERA or sub-ERA is responsible for the loss of USDA commodities due to improper storage, improper distribution, improper use, or neglect, the ERA will be responsible for full replacement of the USDA commodities.

Replacement may be fulfilled with either food of similar type and quality, or cash payment to TEFAP. The decision of how commodities are to be replaced will be determined by either the USDA or CDSS.

(12.5) Out of Condition Foods

The USDA may replace commodities received by the intermediary or by ERAs when CDSS documents that, the commodities were stale, spoiled, out-of-condition, or not in

compliance with USDA specifications at the time USDA delivered them (7 CFR §250.15(a,b)). The conditions for replacement are:

- The loss must be reported to CDSS at the time of discovery.
- A signed consignee receipt or acceptable written documentation of delivery must be submitted to CDSS;
- At the request of USDA or the vendor, the product must be re-inspected and determined to be stale, spoiled, out-of-condition, or not in compliance with USDA specifications;
- ERAs must submit the information listed above to CDSS who will in turn promptly submit the information to USDA.

(12.6) Food Recalls

The ERAs are responsible for following all applicable Federal, State or local requirements for donated foods subject to a food recall as defined in 7 CFR §250.2. In the event of a food recall, CDSS will provide guidance and procedures in responding to a food recall, replacement of recalled donated foods, and reimbursement of specific costs incurred as a result of such actions.

Section 13: Disposal Rules and Procedures

(13.1) Disposal Authorization

The USDA commodities must not be sold, exchanged, or disposed of without approval of CDSS. Therefore, ERAs may not dispose of **ANY** USDA commodities at their own discretion if the value is over \$500.00. ERAs must get written authorization from CDSS to dispose of the USDA commodities.

To obtain authorization to dispose of product that is out-of-condition, the ERA must:

- 1) Set aside or appropriately isolate the out-of-condition product from other products. ERAs must exercise special care in isolating infested or contaminated food away from other product. Affected product must not be accessible to the public;
- 2) Contact the CDSS Program Consultant for further instructions. Certification from a local public health official or a USDA inspector may be required prior to disposal;
- 3) Complete FDU-001 Commodity Loss Report. Any product to be disposed of is by definition also considered a commodity loss;
- 4) Email or fax the FDU-001 (if applicable) to your CDSS Program Consultant.

(13.2) Disposal Procedures

In order to dispose of the product according to 7 CFR §250.15(a):

- 1) The ERA must ensure that donated foods that are out-of-condition, as defined in §250.2, at any of its storage facilities are removed, destroyed, or otherwise disposed of, in accordance with FNS instruction and State or local requirements pertaining to food safety and health. The ERA must obtain an inspection of donated foods by State or local health authorities to determine their safety and condition, as necessary, or as directed by FNS. Out-of-condition donated foods may be sold (*e.g.*, to a salvage company), if permitted by FNS and State or local laws or regulations.

The ERA must outline on the FDU-001 the method that will be used to dispose of the product. The CDSS representative will authorize disposal of the product and approve the method of disposal on the FDU-001 form.

(13.3) Disposal Records

The ERAs must maintain records for three (3) years plus the current year to document the receipt, disposal, and inventory of commodities received (7 CFR §250.19(b) and 251.10(a)(1)).

CDSS requires all ERAs to maintain accurate and complete records with respect to the receipt, distribution/disposal, and inventory of commodities, including products processed from commodities, and with respect to any funds that arise from the operation of the distribution program, including refunds made to ERAs by processors. All entities that contract with ERAs must also maintain such records (7 CFR 250.19).

Therefore, per 7 CFR §251.10(a), ERAs are required to produce a written record of each authorized disposal. The ERA must complete a Commodity Loss Report (CLR) and submit one copy to CDSS for back-up documentation to the inventory report. The ERA must retain one copy for inventory audit purposes. CDSS will forward a copy of the CLR to USDA.

The ERAs must also notify their consultant to record disposed product in the CDMS inventory database as “adjusted out” transactions.

Visit <http://www.cdss.ca.gov/inforesources/EFAP/forms-and-brochures> or contact your Program Consultant for the FDU-001 or the CLR.

Section 14: Records and Reports

(14.1) Records

The ERAs and their sub-ERAs must maintain accurate and complete records to document the receipt, distribution, disposal, and inventory of commodities received (7 CFR §250.12(b) and §251.10(a)(1)).

The ERAs must maintain CDSS required financial records documenting all TEFAP related administrative expenses for 3 years plus the current year.

Distribution sites must complete accurate EFA-7 sign-in forms and maintain these on-site to validate the distribution of USDA commodities (7 CFR §251.10(a)(3)). An ERA may maintain the EFA-7 sign-in forms on behalf of their distribution sites.

(14.2) Reports

Salesforce

CDSS had replaced Commodity Distribution Management System (CDMS) reporting with Salesforce, a San Francisco based company that provides customer relationship management services.

Inventory Report

You are required to enter Inventory reports into Salesforce. ERAs must report the receipt and distribution of USDA commodities on a monthly basis. This report is due by the last day of the month following the month being reported.

Household Participation (HHP) and Congregate Feeding Participation (CFP) Report

It is a requirement to enter all participation numbers into Salesforce. ERAs must report participation figures on a monthly basis. This report is due by the last day of the month following the month being reported.

The Program Consultant will contact the ERA on the 5th following the due date if the report has not been submitted and locked.

Once all data has been entered into Salesforce, the report must be “locked.” A report will not be considered as being filed until the ERA has “locked” the report.

(14.3) Late Reports

Failure to file accurate timely reports may result in an ERA's quarterly reimbursement claim payment being reduced. (*See Section 16.4: Monetary Penalties for Late Reports.*)

(14.4) Recording Participation Numbers

The household participation numbers on HHP reports must reflect unduplicated numbers including those for distribution sites conducting more than one distribution in a

month (e.g., if a distribution site conducts weekly distributions and a family receives USDA commodities more than once in the month the HHP report shall reflect a count of that family and its size only once). On the EFA-7 form, the participations numbers being reported are only those that have circled “yes.”

The participation numbers on CFP reports must separately reflect the number of people and meals served. ERAs that provide congregate meals more than one meal during a distribution must ensure they are reporting accurately (e.g., if one recipient eats a meal and then has seconds, the ERAs that provide congregate meals should report 1 person, 2 meals).

(14.5) Record Retention

All records must be kept for three years from the close of the ERA’s or distribution site’s fiscal year. Records may be required to be kept longer in the case of an ongoing audit or investigation. CDSS may take physical possession of such records on behalf of their ERAs (7 CFR §251.10(a)(4)).

Records must always be reasonably accessible for use during management evaluation reviews, audits, or investigations (7 CFR §251.10(a)(4)).

Section 15: Compliance Reviews/Audits and Accountability

(15.1) USDA Compliance Reviews/Audits

The USDA may conduct compliance reviews/audits of state agencies, ERAs, ERA sub-distributing agencies, and distribution sites at random. Frequently, these reviews/audits are unannounced.

The USDA compliance reviews/audits may include:

- Inspection and the inventory of stored USDA commodities;
- Inspection of USDA commodity storage facilities;
- Inspection and audit of records, including financial records, and reports pertaining to the receipt, storage and distribution of USDA commodities;
- Review of procedures and methodologies utilized in carrying out TEFAP program requirements.

(15.2) CDSS Compliance Reviews

The CDSS will conduct a compliance review of each ERA at least once every four years (7 CFR §251.10(e)(2)(i)). CDSS compliance reviews are an on-going process and as such may be conducted of an ERA, sub-ERA, and/or a distribution site more than once a year. These compliance reviews may be unannounced.

The CDSS compliance reviews will include:

- Eligibility determinations, including a review of ERA procedures and controls to ensure that distribution sites are complying with TEFAP program requirements;
- Food ordering procedures and practices;
- Storage and warehousing practices, including inspection of off-site and/or commercial storage facilities for, pest control, health and safety requirements, and storage and handling procedures;
- Inventory control determinations, including a review of perpetual inventory records, issuance and return procedures and records, physical inventory procedures, inventory reconciliation procedures, and a physical inventory count;
- Evaluation of distribution practices and inventory levels;
- Evaluation/review of agency agreements;
- Evaluation/review of EFA-7 sign-in forms;
- Evaluation of correlation between reports, population served, food ordered and distributed;
- Review of distribution site locations to evaluate proper and equitable selection of sites to meet population needs;
- Compliance of reporting and record keeping requirements, including a review of accounting records and documentation that support submitted reimbursement claims;

- Evaluation of civil rights practices and non-discrimination procedures (7 CFR 251.10(c));
- Evaluation of the degree to which the ERA and distribution sites are serving the eligible population within their designated service area(s) – population served vs. target population;
- Evaluation of program outreach efforts, including advertising, and notification methodologies to ensure eligible recipients are advised of distribution times and locations;
- Assessment of compliance of inventory activity, household participation (HHP), and congregate feeding participation (CFP) data collection and reporting;
- A review of any equipment lists as described in Section 16.6;
- A check for current health inspections; and
- A check for adequate insurance coverage.

The CDSS will submit a compliance review report to an ERA within 30 days from the completion of the compliance review detailing any observed deficiencies and citing corrective action requirements (7 CFR §251.10(e)(5)).

(15.3) ERA Compliance Reviews

The ERAs are required to conduct compliance reviews of half of their sub-ERAs each year and all within a two-year period. The sub-ERAs and distribution sites must demonstrate compliance with Federal and state regulations and requirements.

The ERA compliance review must include all applicable items listed in the TEFAP Distribution Site – Compliance Review Form. (*See Distribution Site – Compliance Review form available at <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>*).

(15.4) Corrective Action Plans

CDSS Compliance Review

An ERA must submit a corrective action plan to CDSS for approval within 30 days of receiving a compliance review report with identified deficiencies that require correction. CDSS will issue instructions related to the proposed plan and/or monitor implementation of the plan.

ERA Compliance Review

An ERA's sub-distributing agencies must submit a corrective action plan to the ERA within 30 days of an ERA compliance review if deficiencies are cited in the review that pertain to TEFAP and require corrective actions. The ERA is to forward a copy of the approved corrective action plan to CDSS.

(15.5) ERA Accountability

The ERAs are accountable to CDSS and USDA for adherence and compliance with all rules, regulations, policies, and procedures as set forth by CDSS and USDA. When not

specifically addressed by CDSS or USDA, ERAs should follow generally accepted, industry-wide practices for recordkeeping, storage, warehousing, inventory, and other responsibilities of the ERA.

The ERA subcontractors, sub-distribution agencies, and distribution sites are equally accountable to CDSS and USDA for compliance and adherence to all rules, regulations, policies, and procedures as set forth by CDSS and USDA.

(15.6) 2 CFR 200 – Audit Requirements

The ERAs, sub-distributing agencies, sub-ERAs, and distribution agencies/sites that receive a total of \$750,000 or more annually in Federal funds, either directly and/or as pass-through, must submit to CDSS a single audit report, including all addendums, attachments, and management reports (2 CFR 200.501(a)). Included in the \$750,000 total are grants, monies, and the value of USDA commodities for all programs of the agency.

The single audit and all accompanying addendums, attachments, and management reports are to be submitted to CDSS within nine months from the close of the fiscal year or within sixty days from the receipt of these items from the preparer, whichever timeframe is shorter.

The CDSS will send a corrective action request letter to an ERA and any affected sub-distribution agency or distribution site if the CDSS single audit review discloses any EFAP deficiencies. The letter will be sent within 30 days of receipt of the single audit. The affected agency is to respond to the CDSS corrective response letter within 30 days of receipt of the letter.

Section 16: Reimbursement Claiming Process

(16.1) Reimbursement for Expenses

The ERAs are eligible to receive reimbursement for expenses directly related to their administration of TEFAP in their service area. ERAs must include all program costs in their claims for reimbursement, even if they exceed their tentative reimbursement.

(16.2) Claiming Timelines

The USDA notifies CDSS yearly of the State's annual TEFAP allocation amount. CDSS emails a letter to each ERA stating the ERA's tentative reimbursement amount from which claims for reimbursement may be made.

The yearly tentative reimbursement amount is broken into four quarters, based on the Federal fiscal year, which runs from October 1 through September 30. The four quarters, with the claim due dates, are as follows:

- October 1 through December 31 1st quarter claim due January 31
- January 1 through March 31 2nd quarter claim due April 30
- April 1 through June 30 3rd quarter claim due July 31
- July 1 through September 30 4th quarter claim due October 31

(16.3) Claiming Process

The ERAs must maintain CDSS required financial records documenting all TEFAP related administrative expenses. Financial documentation (invoices) will be reviewed during compliance monitoring visits and may be reviewed upon request.

The ERAs must submit by email the CDSS approved Request for Reimbursement of Expenses form (EFAP-4). Visit <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> or contact your Program Consultant for the Request for Reimbursement of Expenses form.

All claims must be submitted with acceptable documentation of allowable program expenditures. A separate request package must be submitted for each quarter in which expenses are incurred.

Acceptable documentation to support expenditures includes:

- A description of the allocation methodology used to calculate the expenses
- A copy of the ERAs accounting ledger pertinent to TEFAP costs;
- An appropriate summary of expenses for the submitted quarter; or
- A printout from an automated software program that summarizes TEFAP expenses.

(16.4) Monetary Penalties for Late Reports

Reimbursement claims will be paid out based on completed reports in Salesforce. A Program Consultant will review each food bank's reports in CDMS for accuracy and completeness. If all required reports are complete at the time of reimbursement, the food bank will receive its entire quarterly allocation. **However, if the reports are incomplete at the time of reimbursement, the food bank's quarterly allocation may be deducted based on the number of incomplete reports.**

The two reports required are the commodity inventory report and the HHP/ CFP report. (See Section 14: Records and Reports for due dates.)

Payment of quarterly reimbursement claims will be as follows:

One report complete = 50% of allocation paid
Two reports complete = 100% of allocation paid

ERAs will not lose any of their allocation. Any allocations not paid will be retained until all required reports are completed and submitted.

(16.5) Allowable and Restricted Costs

The definition of direct expenses is revised to include both direct and indirect costs attributable to TEFAP (7 CFR §251.8).

Direct and indirect allowable costs for TEFAP expenses, as outlined in Federal regulations and FNS Instruction 716-3, include:

- Intrastate transportation, storage, handling, distribution, repackaging, and processing;
- Salaries of persons directly administering program and program-related expenses;
- Fringe benefits and travel expenses;
- Rent and utilities;
- Accounting, auditing, and other administrative services;
- Computer services;
- Costs related to training;
- Costs associated with determination of eligibility, verification, and documentation;
- Costs associated with providing information to persons receiving USDA commodities regarding proper storage and preparation;
- Costs for publication of times and locations of distributions;
- Meals provided to volunteers, i.e., non-salaried staff, for services rendered during the distribution of USDA commodities. Meal cost must be reasonable and adequately documented with volunteer's name, hours worked, receipts, invoices, or other evidence of the cost of providing meals, and the volunteer's signature for each meal received.

An ERA may not rent equipment from itself or charge depreciation, but it may charge a rental or use fee for storage space and may charge a share of repair and maintenance fees for vehicles and equipment. If a cost category contains multiple programs, the ERA must identify the portion that applies to TEFAP expenses. The ERA must attach the cost allocation methodology used to determine the appropriate percentage charged to TEFAP.

Expenses for operational costs and warehouse staff salaries/benefits will be cost allocated to TEFAP based on a percentage of the total pounds of food distributed under TEFAP guidelines in the previous calendar quarter and the total pounds of food distributed by all programs in the same quarter. Please note that any food distributed through other non-TEFAP programs would not be included in the TEFAP total poundage.

The ERA expenditures on salaries/benefits of non-warehouse program staff will utilize a different methodology than the one used for operational and warehouse staff costs. For non-warehouse program staff:

- the ERA will periodically time study the hours worked by program staff to determine the percentage of personnel costs that can be allocated and charged to TEFAP.
- All activities performed by (non-warehouse) program staff must be included in the time study, regardless of whether it involves the actual receipt or handling of food (e.g., fundraising activities).
- When reporting time to TEFAP, ERAs will report only those activities that directly support TEFAP.
- Time studies will need to be conducted for a one-week period during the first month of every quarter.

To determine the percentage of costs that can be allocated to TEFAP, ERAs will refer to their completed time study for the calendar quarter and divide the number of hours spent on TEFAP activities by the total number of hours spent on all activities. The calculated percentage is applied to the program staffs' total monthly salaries to determine the allowable amount that can be charged to TEFAP.

(16.6) Capital Expenditures

The ERAs must have prior approval from CDSS before purchasing capital equipment in accordance to 2 CFR §200.439. The purchase/expense request approval form must be submitted, which includes the following information:

- 1) Description of the item of equipment that the ERA intends to purchase;
- 2) Description of the program need that the item will meet;
- 3) An analysis of the cost effectiveness of purchasing the item, rather than renting or leasing; and
- 4) A minimum of two separate bids for the item.

All equipment purchased with TEFAP funds becomes the property of USDA and may not be given away, traded, or sold, without permission from USDA. The ERAs must keep separate accounting records for all capital expenditures. A list of required elements for what must be maintained (i.e. equipment list) for all items/equipment over \$5,000.00 purchased with federal funding is required to be easily accessible for review by CDSS and USDA following 2 CFR §200.313(d)(1).

(16.7) Cash Advances

If the Federal budget is passed timely, ERAs may request a cash advance of up to 10 percent of their tentative reimbursement amount at the beginning of the FFY. Requests for cash advances must be submitted to CDSS after ERAs are notified of their tentative reimbursement amount.

Cash advance payments may be made to ERAs under the following circumstances:

- An ERA may request advance payment of an amount up to 10 percent of its projected annual allowable TEFAP costs, not to exceed 10 percent of their tentative annual allocation of Federal funds for the same FFY;
- The request for the Cash Advance Form must be made in writing. Once the form is filled out it must be returned to CDSS for final approval;
- The EFAP-4 must accompany the Cash Advance Form when submitting a cash advance request;
- Advance payments are scheduled by CDSS for repayment by equal deductions from subsequent requests for reimbursement. Repayment of all cash advances must be made during the same FFY for which it was received, i.e., an advance received in January will be scheduled for liquidation in two equal deductions from reimbursement requests for (1) April-June, and (2) July-September, all in the same FFY.

In order to receive the funds, an ERA must submit a claim, prior to deadline specified by CDSS, and correctly dated receipts for food purchased during the fiscal year. The food purchased must be distributed to recipients free of charge, there can be no hold back for administrative purposes, and no shared maintenance fees may be charged.

Section 17: Complaints

(17.1) Program Complaints

The CDSS will promptly investigate complaints received in connection with the distribution or use of USDA commodities. If ERAs disclose Irregularities, ERAs must be correct them immediately. CDSS will report serious irregularities to USDA. CDSS will retain documentation of investigations and actions for 3 years plus current year per its retention schedule.

(17.2) ERA Responsibility

The ERAs must respond to all CDSS inquiries in a timely manner. CDSS may request information from the ERAs to help respond to inquiries from the Legislature, USDA, the public, and other sources.

If evidence of wrongdoing is discovered:

- The ERA is informed and is then required to submit a corrective action plan to CDSS for approval.
- If CDSS does not approve the submitted plan, CDSS may require the ERA to revise the plan or may prepare its own plan that the ERA is required to implement.

If no evidence of impropriety or wrongdoing is found:

- CDSS will prepare a report of findings and explanations.

In every case, the individual who submitted the complaint and the ERA will receive a response from CDSS.

(17.3) Complaints Received by ERAs

When an ERA or distribution site encounters a problem or receives a complaint that cannot be rectified at the local level, the ERA must immediately notify their TEFAP Program Consultant. The initial notification must be followed up by a written report of the problem or complaint. CDSS will consider the complaint and issue instructions and recommendations on a case-by-case basis. The report should include the following information:

- 1) Entity/Person raising the issue;
- 2) Details about the problem or complaint;
- 3) Any findings; and
- 4) Action taken to resolve the situation.

(17.4) USDA Food Complaints

Complaints about USDA commodities must be handled and filed in WBSCM by CDSS immediately to prevent use of foods that may be unfit for human consumption. The ERA must resolve the issues underlying the complaint in accordance with 7 CFR §250.15(d) as follows:

- 1) Immediately isolate and place all remaining product involved in the complaint on hold;
- 2) Immediately contact TEFAP Program Consultant by telephone and provide the following information:
 - The name of the product and the Material ID# if known (e.g., canned beef-100127);
 - A description of the problem, including any known incidents or facts involved, such as injury or sickness;
 - Sales Order or Item number(s) of the product(s) (The Sales Order number can be found on both direct shipment and CEFL bills of lading. The item number can also be found on WBSCM reports);
 - Amount of product involved and amount of remaining product on hold;
 - Date the product was received by the ERA and the package date, which should be printed on the outside of the case;
 - Temperature in which the product was stored and the temperature conditions of distribution; and
 - The name of a person at the ERA to contact for investigation and follow-up.
- 3) Follow-up with a complete and accurate written report to CDSS that includes the above information. Additionally, digital photographs of impacted products are helpful. The ERA must retain the unopened product until further notice from the USDA Foods Compliant Specialist at FNS, so that the vendor can exercise his right to examine or retrieve the product.

The CDSS will notify USDA and ensure the food complaint is promptly entered in the Web Based Supply Chain Management System (WBSCM).

Section 18: Forms and Charts

This section contains information regarding forms and charts used in TEFAP. Forms and charts are available by email, regular mail, contacting your TEFAP Program Consultant, or via the internet at <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>.

(18.1) Inventory Reports

- Inventory Report – USDA Commodities

Inventory reporting is done through Salesforce. Salesforce is a secured, password-protected system. Login credentials are required and assigned to ERAs. It is the responsibility of the ERA to inform CDSS when a new employee requires a login and password as well as when an employee, who had a login account, is no longer employed by the ERA.

(18.2) Commodity Reports

- USDA commodity Receipt Report – Problem Load (CRR)
- Commodity Loss Report (CLR)

The forms listed above are available in Adobe Acrobat format on the internet at <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>.

(18.3) Certification and Eligibility Documentation

- EFA-7 – TEFAP Certification of Eligibility

Access the form at <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> in English or Spanish or contact your Program Consultant for the EFA-7 form. Only one version of the EFA-7 may be used. All distribution sites must use the EFA-7 dated 02/18.

(18.4) TEFAP Participation Reports

- Household Participation Report (HHP)
- Congregate Feeding Participation Report (CFP)

(18.5) Request for Reimbursement of Expenses

Visit <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> or contact your Program Consultant for the Request for Reimbursement of Expenses (EFAP-4) form). Please note that the internet version is in Adobe Acrobat format.

(18.6) TEFAP Income Eligibility Chart

Visit <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> or contact your Program Consultant for the current TEFAP Income Guidelines. The chart is available in both English and Spanish. Please post the chart in the appropriate place, as instructed in this manual.

(18.7) Distribution Site Signage

- USDA “And Justice for All” Poster
- Current English and Spanish Income Guidelines
<http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>
- Written Notice of Beneficiary Rights (if faith-based organization)

The USDA’s “And Justice for All” sign required to be posted at distribution sites is available from CDSS. Please contact your Program Consultant to obtain the sign and other notices listed above or download them from <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures>. Note: the full size “And Justice for All” sign must be on display, no exceptions.

(18.8) Recommended Distribution Site Agreement

The Food Bank and Distribution Site Agreement is available at <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> or contact your Program Consultant for a copy.

(18.9) Alternate Pick-up Request Form:

Visit <http://www.cdss.ca.gov/inforesources/EFAP/Forms-and-Brochures> or contact your TEFAP Program Consultant for the Alternate Pick-up form. Please note that the internet version is in Adobe Acrobat format. The chart is available in both English and Spanish.