# MASSACHUSETTS

# DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

OFFICE FOR FOOD AND NUTRITION PROGRAMS

# STATE PLAN OF PROGRAM OPERATIONS AND ADMINISTRATION

# OF

# THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP)

January 2025

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**MASSACHUSETTS DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION**

**State Plan of Program of Operations and Administration of The Emergency Food Assistance Program (TEFAP)**

This document represents our plan for the operation and administration of The Emergency Food Assistance Program (TEFAP) in the Commonwealth of Massachusetts. By agreement with the United States Department of Agriculture, the Massachusetts Department of Elementary and Secondary Education is the distributing agency in Massachusetts for USDA Foods. A copy of this plan and a list of local agencies that participate in the program are available on the DESE website ([Food Distribution - Office for Food and Nutrition Programs](https://www.doe.mass.edu/cnp/food_dist.html)).

1. **Program Administration**

A. Designated State Agency:

Massachusetts Department of Elementary and Secondary Education

Office of Food and Nutrition Programs

135 Santilli Highway

Everett, MA 02149

Phone: 781-338-6480

Fax: 781-338-3399

B. Program Administration 7 CFR 251.2

The Department of Elementary and Secondary Education (DESE) will administer The Emergency Food Assistance Program (TEFAP). DESE will operate TEFAP as provided in the final rule of 7CFR, Parts 250 and 251. In order to carry out the provisions of the final rule, DESE will place food orders with the United States Department of Agriculture USDA. DESE will organize and coordinate a network of emergency feeding organizations eligible to receive and distribute donated food for use in accordance with 7 CFR, Parts 250 and 251. DESE will contract for the receipt, storage and shipment of USDA Foods to eligible recipient agencies.

DESE will collaborate with the food banks to determine USDA Foods preferences using in person and online discussions and tools such as meetings, emails and order preference system (google sheets). The in-person discussions typically occur on an annual basis with food bank staff involved with food purchases. Continual communication occurs via email throughout the year. Google sheets is used for every offer of USDA Foods – a google sheet is set up for entitlement purchases on an annual basis noting products available, costs and delivery date options.

i. Contracts/Agreements 7CFR 251.2

DESE will contract with four private non-profit food banks: The Greater Boston Food Bank, Merrimack Valley Food Bank, Worcester County Food Bank and the Food Bank of Western Massachusetts (The Food Banks). These contracts will be considered permanent, with amendments to be made as necessary.

As required by 7 CFR 251.2, each food bank that receives and distributes TEFAP donated foods and/or administrative funds must enter into an agreement with all eligible sub recipient agencies which consist of food pantries, soup kitchens, and emergency shelters. The Food Banks will maintain signed agreements with each eligible recipient agency that receives TEFAP / USDA foods. Agreements must adhere to the provisions of 7 CFR 250 and 251 governing the TEFAP program.

All eligible recipient agencies must provide to DESE, on a monthly basis, reports that document the receipt, distribution, disposal, and inventory of TEFAP / USDA foods.

ii. Payment of Funds for Administrative Costs 7 CFR 251.8

DESE will reimburse eligible recipient food banks for shipping, storage and other related costs incurred in the distribution of TEFAP / USDA foods up to the level of available federal administrative funds. The actual reimbursement is contingent upon the availability of federal funds.

DESE will provide, to eligible recipient agencies, which have entered into a contract with DESE, not less than 40% of the Federal Emergency Food Assistance Program administrative funds allocated to the State as required by 7 CFR 251.8 (4). It is anticipated that the total administrative funds allocated to the state will be passed through less any costs incurred by the state in administering the TEFAP program. TEFAP administrative funds are allocated to the food banks in Massachusetts. Monies are distributed based on each food banks service area population of low-income and unemployed persons as compared to the statewide statistics.

Each food bank’s share of funds will be based on:

(a) 60% on the number of persons in households within the service area having incomes below the poverty level, and

(b) 40% on the number of unemployed within the service area

These numbers are examined and updated on an annual basis following the federal fiscal year calendar.

1. **USDA Foods Distribution**

DESE does not expect to meet all of the eligible recipient agencies’ requests for TEFAP USDA Foods. Therefore, the first priority will be given to emergency feeding organizations that provide nutrition assistance to relieve situations of distress, e.g. food banks, food pantries and soup kitchens. 7 CFR 251.4(h)(i).

**Distribution Priorities**

Food Banks must allocate and distribute USDA Foods by the following priorities:

**Priority 1** – To recipient agencies (RAs) that provide emergency food assistance (i.e., hunger relief agencies, soup kitchens, and like agencies; food pantries; alternate and additional CEs; and shelters for children or battered women)

**Priority 2** – To RAs that provide non-emergency, prepared meals to eligible persons (i.e., group treatment centers and other group living arrangements). Priority 2 is for USDA Foods that remain only after Priority 1 needs are met.

**Priority 3** — To RAs that provide non-emergency, prepared mealsto groups that include both eligible and non-eligible persons. However, the groups must be predominantly eligible. Priority 3 is for USDA Foods that remain after Priority 2 needs are met.

In order for RAs to receive USDA Foods under Priority 3, they must demonstrate to the Food Bank that they serve predominantly eligible people. RAs may demonstrate they serve predominantly eligible persons by providing documentation which verifies the socioeconomic conditions of the area in which the RA is located or from which it draws its clientele. Such documentation includes (but is not limited to) poverty, unemployment, vagrancy, or welfare program usage rates.

Priority 3 gives Food Banks flexibility in their efforts to reach a greater number of eligible persons. However, Food Banks must continue to periodically assess the food assistance needs of the residents of their service areas and, as feasible and necessary, to develop partnerships with recipient agencies that serve only eligible persons. Additionally, Food Banks must continue to assess the needs of specific groups or categories of eligible persons, such as the people living in rural, remote, Tribal, or difficult-to-serve areas.

The requirement for Food Banks to develop outlets for USDA Foods conforms to the program’s primary goal of distributing to eligible people and, over time, may reduce the amount of USDA Foods distributed to Priorities 2 and 3. DESE will continue to monitor the distribution of USDA Foods to ensure that Food Banks adhere to priorities. If supported by review findings or other information, DESE will request corrective action as appropriate.

**Meeting the priority system.** DESE recognizes that some food banks’ inventory tracking system causes difficulty in meeting the priority system. Food banks have a number of options. For instance, they may choose to manually adjust the tracking system to meet the priority system. As an alternative, food banks may choose to serve TEFAP USDA Foods to only Priority 1 agencies. In all cases, each food bank must comply with DESE and USDA regulations for the priority system.

**Ninety Days to Meet Priority 1 Needs.** Except as provided below, during the 90 days following the receipt of a shipment of USDA Foods, a food bank must distribute the USDA Foods to Priority 1 RAs only. Following the 90-day period, a food bank may distribute remaining USDA Foods to Priority 2 RAs; and, if USDA Foods remain after Priority 2 RAs’ needs have been met, the food bank may then distribute USDA Foods to Priority 3 RAs.

*Exception: A food bank that documents that all Priority 1 RAs’ needs have been met (as requested or as actually needed based on available data) may distribute USDA Foods to Priority 2 RAs prior to expiration of the 90-day period described above. If the food bank, then documents that all Priority 2 RAs’ needs have been met, the food bank may distribute remaining USDA Foods to Priority 3 RAs prior to expiration of the 90-day period described above.*

If after 90 days TEFAP USDA Foods have been distributed in sufficient quantities to meet the needs of all emergency feeding organizations, USDA Foods will then be made available to the second priority of eligible recipient agencies, e.g. other public or private non-profit organizations that serve need people but do not relieve situations of emergency and distress 7 CFR 251.4(h)(ii).

**III. Program Eligibility** 7 CFR 251.5

TEFAP / USDA foods may be used in two ways: they may be used to prepare meals which are served to a group, or TEFAP / USDA foods may also be given to participants who take them home for use by the household (household distribution).

A. Eligibility for Prepared Meals 7 CFR 251.5 (a)

Organizations providing prepared meals must demonstrate that they serve predominantly needy persons. Those seeking prepared meals at an approved TEFAP site are presumed to be needy. Sites do not have to maintain records of the name of participants to whom they serve meals.

B. Eligibility for Household Distribution 7 CFR 251.5 (b)

In accordance with federal regulations 7 CFR 251.5(b) and 251.10(a)(3), DESE has established eligibility criteria which must be met in order for a household to qualify to receive USDA foods. For purposes of this program, household is defined as all individuals living together under one roof regardless of their relationship to one another.

1. The household must reside in Massachusetts. Participants will self-declare residency by providing their home zip code.
2. In order to be eligible to receive household TEFAP USDA Foods, the total household income for all household members must be at or below 250% of federal poverty guidelines.
3. Applicants who participate in one or more of the following programs are automatically eligible – Free and Reduced-Price Lunch, Food Stamps/SNAP, AFDC, TANF, WIC, Welfare, Medicaid, Supplemental Security Income, Head Start, Fuel Assistance or Veteran’s Aid.

**IV. Record Keeping** 7 CFR 251.10

Federal regulations do not require that an applicant household provide independent verification of income. Therefore, DESE does not impose stricter eligibility standards. However, in compliance with 7 CFR 251.10(a)(3), eligible recipient agencies must collect participant attestation to determine household eligibility to receive TEFAP foods annually or whenever Federal income guidelines change as notified by DESE.

ERAs may develop a self-declaratory form for use in collecting household information. Such forms must collect the following information for each household applicant: applicant name, address, number of persons in the household, type of eligibility provided.

Eligible recipient sites that conduct household distributions must keep a record, for each day on which they distribute USDA Foods, of the names of all households that receive food. Site staff may meet this requirement by writing down the name of the household or placing a mark next to the household’s name on pre-printed form. Sites may also collect this information in digital format with approval from the SDA. The information gathered will be reported to FNS by the State Agency.

Participants who get food to take home do not have to sign a receipt to document that they have received it. Nor is it necessary to record the specific food, e.g. two cans of beef stew distributed to each individual household.

**V. Confidential Applicant and Participant Information** 7 CFR 251.10(c)(1)

Defines confidential applicant and participant information as any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of a TEFAP application, certification, or participation, that individually identifies an applicant, participant, and/or their family members. Confidential applicant and participation information includes information provided during the intake process for TEFAP eligibility purposes (e.g., name, number of persons in the household, household income) in addition to information collected from TEFAP applicants and participants for purposes unrelated to TEFAP eligibility (e.g., date of birth, occupation, education level, household address). Applicant and participant information is confidential regardless of the original source and exclusive of previously applicable confidentiality provided in accordance with other Federal, State, or local law.

Confidential applicant and participant information does not include anonymous, de-identified information obtained from TEFAP applicants or participants.

***Data sharing agreements***

TEFAP regulations at 7 CFR 251.10(c)(2) outline that State agencies and ERAs must restrict the use and disclosure of information obtained from TEFAP applicants or participants to persons directly connected with administration or enforcement of TEFAP. This could include State agency staff conducting management evaluations and ERA staff and volunteers who process TEFAP intake forms. With the consent of the participant, State agencies and ERAs may share information obtained from TEFAP applicants and participants with other health and welfare programs for use in determining eligibility in those programs, or for program outreach.

If State agencies want to share confidential applicant and participant information with other health and welfare programs for use in determining eligibility in those programs, they must sign agreements with those entities receiving the information to ensure that the information is only used for specified purposes and will not be shared further. These data sharing agreements should explicitly reference TEFAP confidentiality regulations at 7 CFR 251.10(c)(1) Page 4 of 5 and (c)(2) and must outline how the other program(s) will protect the confidential applicant and participant information from being further shared. This should encompass both accidental and purposeful disclosure of the information. An agreement must be in place prior to sharing any applicant or participant information with another program.

***Obtaining TEFAP applicant and participant consent for information sharing purposes***

State agencies and ERAs should explicitly obtain consent from TEFAP applicants and participants to share information with other health and welfare programs for program eligibility purposes or for program outreach purposes. Applicant and participant consent can be achieved by incorporating a written consent question or form into the intake or sign-in process at the ERA. The consent question/form must clearly list the other health and welfare programs that will receive the applicant or participant information, the specific applicant and participant information that will be shared and should allow the applicant or participant to easily agree to or opt out of the data sharing. The consent question/form must also clearly indicate that the receipt of USDA Foods is not contingent upon a participant’s or applicant’s consent to share their information.

***Sign-in Sheets and Electronic Intake Systems***

Confidentiality requirements in TEFAP are not to be costly and time consuming for ERA staff. TEFAP State agencies are encouraged to work with ERAs to devise policies or procedures to allow for the maintenance of one sign-in sheet while upholding TEFAP applicant and participant confidentiality. For example, in accordance with applicable State agency policies and procedures, ERA staff and volunteers overseeing the TEFAP intake process could cover up the name of all previous participants who signed in with an additional sheet of paper, leaving only the blank sign-in rows visible.

TEFAP confidentiality requirements are also not intended to prevent the use of electronic intake platforms. The use of electronic systems in TEFAP, including electronic intake platforms, is permitted as long as the systems are able to properly ensure the protection of applicant and participant information (both information used for TEFAP eligibility purposes and voluntarily provided information used for other purposes) and other program requirements at 7 CFR 251, such as record keeping.

***The Identity of Persons Making Complaints or Allegations Against Individuals Participating in or Administering the Program***

TEFAP regulations at 7 CFR 251.10(c)(3) require State agencies and ERAs to limit the disclosure of the identity of persons making a complaint or allegation against an individual participating in or administering TEFAP. State agencies and ERAs must protect the confidentiality, and other rights, of any person making allegations or complaints against another individual participating in, or administering TEFAP, except as necessary to conduct an investigation, hearing, or judicial proceeding, as applicable.

**VI. Monitoring Procedures**

An annual review will be conducted of one-tenth (1/10) of each eligible recipient agency (food bank) that has entered into an agreement with DESE to distribute TEFAP USDA Foods 7 CFR 251.10(e).

An annual review will be conducted of one-tenth (1/10) or twenty (20), whichever is fewer, of all the eligible recipient agencies which receive TEFAP USDA Foods and/or administrative funds pursuant to an agreement with another eligible recipient agency. Reviews will be conducted, to the maximum extent feasible, simultaneously with the actual distribution of TEFAP USDA Foods and/or meal service, and eligibility determinations, if applicable. 7 CFR 251.10(e)(3)

At minimum, recipient agency reviews will include:

1. eligibility determination
2. food ordering procedures
3. storage and warehousing practices
4. inventory controls
5. approval of distribution sites
6. reporting and record keeping procedures
7. civil rights
8. 501 c 3 status compliance

Corrective Action 7 CFR 251.10(e)(5)

If deficiencies are disclosed through the review of an eligible recipient agency, the recipient agency will be provided a written report of the review findings and a plan of corrective action. At minimum, this report will include:

1. a description of each deficiency found along with contributing factors as observed by the reviewer
2. requirements for the submission and approval of a corrective action plan
3. a timeframe for the submission of corrective action

DESE will conduct follow-up monitoring visit(s) to ensure that the recipient agency’s corrective action plan has been implemented and that the deficiency/ies has/have been remedied.

**VII. Volunteer Workers** 7 CFR 251.10 (g)

Eligible recipient agencies shall, to the extent practicable, use volunteer workers and foods which have been donated by charitable and other types of organizations.

**VIII. Matching Funds** 7 CFR 251.9

The State will provide a cash or in-kind contribution equal to the amount of TEFAP administrative funds received under 7 CFR 251.8 and retained by the SDA for state level costs.

**USDA Nondiscrimination Statement**

“In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.” The current NDS must be printed on all materials provided by the Food Bank to recipients for public information, education or distribution

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA’s TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: [https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf](https://urldefense.com/v3/__https%3A/www.usda.gov/sites/default/files/documents/USDA-OASCR%2A20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf__;JQ!!CUhgQOZqV7M!mWzhhubUpuMhGFM4ACcc4mJP_mEsTLOmdITgbeC8Fjo78Z5RIaxL3zI3jPulHixnhjzk2Bv8BhYKOp6XP4O8Zk9CNK2ZmSJrNQ$), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:**
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
2. **fax:**
(833) 256-1665 or (202) 690-7442; or
3. **email:**
Program.Intake@usda.gov

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