

Food and Nutrition Service, USDA

§ 251.12

§ 251.11 State monitoring system.

(a) Each State agency must monitor the operation of the program to ensure that it is being administered in accordance with Federal and State requirements. State agencies may not delegate this responsibility.

(b) Unless specific exceptions are approved in writing by FNS, the State agency monitoring system must include:

(1) An annual review of at least 25 percent of all eligible recipient agencies which have signed an agreement with the State agency pursuant to § 251.2(c), provided each such agency must be reviewed no less frequently than once every four years; and

(2) An annual review of one-tenth or 20, whichever is fewer, of all eligible recipient agencies which receive USDA Foods and/or administrative funds pursuant to an agreement with another eligible recipient agency. Reviews must be conducted, to the maximum extent feasible, simultaneously with actual distribution of USDA Foods and/or meal service, and eligibility determinations, if applicable. State agencies must develop a system for selecting eligible recipient agencies for review that ensures deficiencies in program administration are detected and resolved in an effective and efficient manner.

(c) Each review must encompass, as applicable, eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, approval of distribution sites, reporting and recordkeeping requirements, and civil rights.

(d) Upon concurrence by FNS, reviews of eligible recipient agencies which have been conducted by FNS Regional Office personnel may be incorporated into the minimum coverage required by paragraph (b) of this section.

(e) If deficiencies are disclosed through the review of an eligible recipient agency, the State agency must submit a report of the review findings to the eligible recipient agency and ensure that corrective action is taken to eliminate the deficiencies identified.

[89 FR 87252, Oct. 31, 2024]

§ 251.12 Limitation on unrelated activities.

(a) Activities unrelated to the distribution of USDA Foods or meal service may be conducted at distribution sites as long as:

(1) The person(s) conducting the activity makes clear that the activity is not part of TEFAP and is not endorsed by the Department. Nutrition education materials, such as recipes or other information about USDA Foods, dates of future distributions, hours of operations, or information about other Federal, State, or local government programs or services for the needy may be distributed without a clarification that the information is not endorsed by the Department;

(2) The person(s) conducting the activity makes clear that cooperation is not a condition of the receipt of USDA Foods for home consumption or prepared meals containing USDA Foods (cooperation includes contributing money, signing petitions, or conversing with the person(s));

(3) The activity is not conducted in a manner that disrupts the distribution of USDA Foods or meal service, and;

(4) The activity does not involve information unrelated to TEFAP being placed in or printed on bags, boxes, or other containers in which USDA Foods are distributed.

(b) Eligible recipient agencies and distribution sites shall ensure that activities unrelated to the distribution of USDA Foods or meal service are conducted in a manner consistent with paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, State agencies shall immediately terminate from further participation in TEFAP operations any eligible recipient agency that distributes or permits distribution of materials in a manner inconsistent with the provisions of paragraph (a) of this section.

(d) The State agency may withhold termination of an eligible recipient agency's or distribution site's TEFAP participation if the State agency cannot find another eligible recipient agency to operate the distribution in the area served by the violating organization. In such circumstances, the

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State agency shall monitor the violating organization to ensure that no further violations occur.

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§ 251.13 Farm to Food Bank Projects.

(a) *Definition of project.* Farm to Food Bank Projects are the harvesting, processing, packaging, or transportation of unharvested, unprocessed, or unpackaged foods donated by agricultural producers, processors, or distributors for use by emergency feeding organizations under section 203D of the Emergency Food Assistance Act of 1983.

(b) *Availability and allocation of funds.* Funds for the costs of carrying out a Farm to Food Bank Project will be allocated to State agencies as follows:

(1) Funds made available to the Department for Farm to Food Bank Projects will be distributed to State agencies that have submitted an approved amendment to their State plan. The amendment must describe a plan of operation for a Farm to Food Bank Project and include all elements listed in paragraph (e) of this section. The plan of operation must be updated and resubmitted on an annual basis by the dates requested by FNS.

(2) Funds for Farm to Food Bank Projects will be distributed each fiscal year to State agencies using the funding formula defined in § 251.3(h).

(3) Funds will be available to State agencies for one year from the date of allocation.

(c) *Purpose and use of funds.* State agencies may only use funds made available under this section for the costs of carrying out a Farm to Food Bank Project.

(1) Farm to Food Bank Projects must have a purpose of:

(i) Reducing food waste at the agricultural production, processing, or distribution level through the donation of food;

(ii) Providing food to individuals in need; and

(iii) Building relationships between agricultural producers, processors, and distributors and emergency feeding organizations through the donation of food.

(2) Project funds may only be used for costs associated with harvesting,

processing, packaging, or transportation of unharvested, unprocessed, or unpackaged foods donated by agricultural producers, processors, or distributors for use by emergency feeding organizations.

(3) Project funds cannot be used to purchase foods or for agricultural production activities such as purchasing seeds or planting crops.

(d) *Matching of funds*—(1) *State matching requirement.* The State agency must provide a cash or in-kind contribution at least equal to the amount of funding received under this section for a Farm to Food Bank Project.

(2) *Allowable contributions.* State agencies shall meet the match requirement in paragraph (d) of this section by providing allowable contributions as described at § 251.9(c); contributions must only be for costs which would otherwise be allowable as a Farm to Food Bank Project cost.

(3) *Emergency feeding organization contributions.* Cash or in-kind contributions from emergency feeding organizations that partner with the State agency to administer the Farm to Food Bank Project are allowable.

(4) *Food donations.* Donations of foods, including the value of foods donated as a part of a Farm to Food Bank Project, cannot count toward the match requirement in paragraph (d) of this section.

(e) *Plans of Operation for Farm to Food Bank Projects.* A plan of operation for a Farm to Food Bank Project must include:

(1) A high-level summary of the Farm to Food Bank Project.

(2) A description of the types of foods expected to be donated through the Project.

(3) A list of emergency feeding organizations within the State that will operate the Project in partnership with the State agency.

(4) A list of any State agencies that will operate the Project as a part of a cooperative agreement.

(5) A description of the Project that includes how the Project will:

(i) Reduce food waste at the agricultural production, processing, or distribution level through the donation of food;