

F ood & N utrition S ervice	<h1 style="margin: 0;">FNS INSTRUCTION</h1>	NUMBER
	U.S. DEPARTMENT OF AGRICULTURE 3101 PARK CENTER DRIVE ALEXANDRIA, VA 22302-1500	716-3 Rev. 1

ACTION BY: Regional Offices
 Distributing Agencies

The Emergency Food Assistance Program (TEFAP):
Administrative Costs

I PURPOSE

This Instruction establishes policy for charging allowable costs associated with the administration of TEFAP, and for assigning such costs to States and eligible recipient agencies (ERAs). Such classification of costs is necessary in order to demonstrate compliance with the statutory and regulatory requirements described in section II, below.

II AUTHORITY

Section 204 of the TEFAA of 1983, as amended, authorizes FNS to allocate funds to TEFAP State agencies “. . . for State and local payments for costs associated with the distribution of commodities by eligible recipient agencies under this title, . . .” and sets the terms and conditions for use of such funds.

A Allowable Administrative Costs. States and ERAs may use funds from the Federal grant allocation for transporting, storing, handling, repackaging, processing, and distributing USDA commodities and commodities secured from other sources, and for providing information on the appropriate storage and preparation of such commodities, regardless of whether such costs are charged to TEFAP as direct or indirect costs. A State agency may restrict the use of TEFAP funds by eligible recipient agencies by disallowing one or more types of expenses expressly allowed in the regulations. The State must specify expenses for which the eligible recipient agencies can use TEFAP funds in the agreements with recipient agencies, or in other written notification incorporated into the agreements by reference (7 C.F.R. 251.8 (e)(2)).

B State Matching Requirement. The State must match each dollar of its Federal grant allocation retained by the State for State-level administrative costs or expended on behalf of or made available directly to ERAs that are not emergency feeding organizations (EFOs) with one dollar in cash or in-kind contributions from non-Federal sources. (See Section VII. D. 1 and 2, below.)

DISTRIBUTION: F2,FM,D,I	EXPIRATION: Remove FNS Instruction 716-3 from Manual. Insert this Instruction	RESPONSIBLE FOR PREPARATION AND MAINTENANCE: FDD-200	Page 1 12-22-00
--------------------------------	--	---	--------------------

C 40-Percent Pass-Through Requirement. The State must make available not less than 40 percent of its initial Federal grant for the current fiscal year for allowable costs incurred by ERAs which are EFOs that have signed direct agreements with the State agency ((7 C.F.R. 251.8 (e)(4)). Funds applied toward meeting this requirement are considered “passed through” to EFOs. State agencies which pass through 40 percent of such funds to ERAs that are EFOs will be considered to have met the pass-through requirement, even if these EFOs, in turn, pass on a portion of the administrative funds they receive to ERAs that are not also EFOs.

D State-Paid Local Level Costs. TEFAP funds expended directly by the State agency for local level administrative costs incurred by ERAs which are EFOs may be counted toward meeting the 40-percent pass-through requirement. Such funds need not be matched (7 C.F.R. 251.9 (a)). States may expend TEFAP funds on behalf of ERAs which are not EFOs, but such funds do not count toward meeting the 40-percent pass-through requirement (Section 251.8 (d)(4)(B)(ii)) and must be matched (Section 251.9 (a)).

E Interstate Costs. The Federal grant may be used to pay costs associated with the interstate and intrastate transportation, storage, handling, and distribution of USDA commodities and commodities obtained from other sources, except that for interstate expenditures to be allowable, the commodities must have been specifically earmarked for the particular State or ERA which incurs the cost.

III ABBREVIATIONS

CFR - Code of Federal Regulations
EFOs - Emergency Feeding Organizations
ERAs - Eligible Recipient Agencies
FNSRO - FNS Regional Office
TEFAA - The Emergency Food Assistance Act
TEFAP - The Emergency Food Assistance Program
U.S.C. - United States Code
USDA - United States Department of Agriculture

IV FORM

FNS-667, Report of the Emergency Food Assistance Program (TEFAP) Administrative Costs

V RESPONSIBILITIES

The TEFAP State agency is responsible for submission of Form FNS-667 to FNS on a quarterly basis. This information must include, if applicable, grant funds expended on State-level costs, State-paid ERA costs, local-paid ERA costs, non-Federal funds, and other resources used to meet the State match.

VI DEFINITIONS

A Allowable Costs - State and ERA costs attributable to TEFAP regardless of whether they are charged to the program as direct or indirect costs (as referenced in section VII.C. of this Instruction) pursuant to 7 C.F.R. 251.8 (e)(1) and (2).

B Emergency Feeding Organization (EFO) - An eligible recipient agency which provides nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. Emergency feeding organizations have priority over other eligible recipient agencies in the distribution of TEFAP commodities pursuant to section 251.4 (h).

C Eligible Recipient Agency (ERA) - A public or private nonprofit organization that has executed an agreement with the TEFAP State agency or another ERA to receive USDA commodities and/or administrative funds for the operation of TEFAP (7 CFR 251.3 (d)).

D Federal Grant Allocation - The amount of funds appropriated by Congress and allocated by FNS to a TEFAP State agency for the administration of TEFAP.

E TEFAP - The Emergency Food Assistance Program, authorized under the Emergency Food Assistance Act of 1983 (PL 98-8), as amended.

VII POLICY

A Priority for Eligible Recipient Agencies Distributing USDA Commodities. State agencies and ERAs distributing administrative funds must ensure that the needs of ERAs distributing USDA commodities are met, relative to both USDA and non-USDA commodities they receive, before making such funds available to ERAs which distribute only non-USDA commodities (7 C.F.R. 251.8 (d)).

B General Use of Funds. Funds made available under TEFAP can be used only for allowable administrative costs, as defined in 7 C.F.R. 251.8 (e) and as interpreted in this Instruction. These funds may be used by States and ERAs to pay the expenses associated with the distribution of USDA and non-USDA commodities to the extent that the foods are ultimately distributed by ERAs which have entered into agreements pursuant to 7 CFR 251.2.

States can either advance administrative funds to ERAs or reimburse ERAs for allowable administrative costs after such costs have been incurred and reported.

However, TEFAP is a cost-reimbursable program. Therefore, if States advance administrative funds to ERAs, such funds can be retained by recipient ERAs only to the extent that they have incurred allowable administrative costs that equal or exceed the advances they have received.

States are permitted to make administrative funding available to any ERA, regardless of whether it is also an EFO. However, 7 C.F.R. 251.8 (e)(4) requires that not less than 40 percent of each State's initial grant be made available to EFOs for allowable TEFAP administrative costs, or used by the State to cover such local-level costs on their behalf.

Appropriations language for some years authorizes States to request that a portion of their TEFAP administrative grants be used instead by USDA to purchase additional commodities for the State. The 40-percent pass-through applies to each State's initial grant, before the State has requested that any portion be used to augment its commodity entitlement. The pass-through does not apply to additional funds that the State may receive later in the fiscal year when any unspent funds from the previous year are reallocated.

C Allowable Costs. Any cost charged to the Federal grant allocation at either the State or ERA level must meet two criteria. First, it must be allowable under 7 CFR 3016 or CFR 3019, as applicable, and second, it must be allowable under 7 CFR 251.8 (e)(1). In addition to these criteria, any cost counted towards meeting the State matching requirements must meet the requirements of paragraph D, below.

1 Direct costs clearly identifiable with TEFAP are allowable. A salient example is the cost of salaries for State employees engaged solely in administering TEFAP. However, when the State agency is involved in activities benefiting other programs, some direct cost items may require allocation to each program. For example, a full-time State employee may divide his/her time between TEFAP and the Commodity Supplemental Food Program. Although the employee's salary is treated as a direct cost in the State agency's accounting system, only part of it benefits TEFAP. The State agency must identify this portion and assign it to TEFAP in accordance with 7 CFR 3016.22. That regulation incorporates, by reference, OMB circulars A-87 and A-122, which establish cost principles for State and local governments and nonprofit organizations, respectively. It thereby requires program operators to assign costs of compensation for personnel services to Federally assisted programs on the basis of the relative amount of time worked in each program. The basis for time distribution must be documented. Depending upon how they are treated in the State agency or ERA accounting system, audits may also be "allocated direct costs." A portion of each such cost must be assigned to TEFAP on a reasonable basis.

Additionally, meals provided to volunteers (i.e., non-salaried staff) for services rendered during the distribution of commodities by ERAs will be considered an allowable TEFAP administrative cost provided the cost applied to the meal is reasonable and information is kept on file to support the charge.

2 Indirect costs are costs incurred for common or joint purposes, such as the personnel department, accounting, payroll, and other "overhead" activities. The portions of such costs applicable to particular programs cannot be precisely identified without exerting effort disproportionate to the benefits achieved. The vehicle for assigning indirect costs to Federally

assisted programs, functions, and activities is an indirect cost rate proposal approved by a Federal cognizant agency. Generally, “overhead” costs are aggregated into one or more “indirect cost pools” which are used to compute an “indirect cost rate.”

D State Matching Requirements. The State must match each dollar of its Federal grant allocation used for State-level administrative costs or expended on behalf of, or disbursed directly to, ERAs that are not also EFOs with one dollar in cash or in-kind contributions from non-Federal resources. The following contributions can be counted toward meeting the match:

- 1 Non-Federal cash outlays of the State agency specifically for allowable State and local level administrative cost, including the outlay of money contributed to the State by other public agencies and institutions, private organizations, and individuals.
- 2 In-kind contributions from non-Federal sources towards State-level costs.
 - a In-kind contributions include depreciation or use allowance for real property, expendable and non-expendable personal property, and services specifically identifiable with State-level storage and distribution costs.
 - b To be classified as an allowable State-level cost for purposes of the State matching requirement, a third-party in-kind contribution must meet all the following criteria:
 - (1) In its administration of food assistance programs, the State has performed this type of function over a sustained period of time in the past.
 - (2) The function was not previously performed by the State on behalf of ERAs. (If it were, it would be considered a State-paid ERA cost. Costs which are paid by the State on behalf of an ERA that is an EFO do not need to be matched.)
 - (3) The State would normally perform the function as part of its responsibility in administering TEFAP or related food assistance programs if it were not provided as an in-kind contribution.
- 3 The State match cannot be met by:
 - a Local-level costs paid by ERAs.
 - b The value of volunteer services at the ERA level.

FNS INSTRUCTION 716-3
REV 1
12-22-00

4 State cash and in-kind contributions to functions covered under section X.A.1., below, cannot be counted toward meeting the State match requirement. State cash and in-kind contributions to direct-and indirect-cost functions covered under section X.A.2., below, can be counted toward the match.

VIII STATE-LEVEL COSTS

A General. State agencies may assign to the State level any allowable cost that relates to the State agency's administration of TEFAP. States can also apply their indirect cost rate through the methodology approved by the applicable cognizant agency. Examples of direct costs are presented in paragraph B, below. If the TEFAP grant is used to pay them, these costs must be matched (7 CFR 251.9). However, exemptions have been established under 7 CFR Part 251.9(b) for Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands when the matching requirement is less than \$200,000. These TEFAP State agencies are required to assign all of their Federal grant allocations to the State level on Form FNS-667.

B Examples. Examples of allowable costs assignable to the State level include, but are not limited to, the following:

1 Salary and directly charged fringe benefits of the TEFAP State Director and other State employees for the time devoted to:

- a Entering into the agreement with the applicable FNSRO to administer TEFAP;
- b Preparing the TEFAP Distribution Plan required by 7 CFR and submitting it to the applicable FNSRO;
- c Preparing the TEFAP budget and presenting it to the State legislature;
- d Maintaining accounts to control the Federal grant allocation funds, State matching funds, etc.;
- e Determining commodity needs, ordering them from FNS, and allocating them to ERAs;
- f Planning and coordinating the Statewide shipment of commodities to ERAs;
- g Performing reviews of ERAs in accordance with 7 CFR 251.10(e);
- h Arranging for or conducting audits of the State agency in accordance with 7 CFR 3016.26;

- i Responding to ERA inquiries on TEFAP matters or policy; and
- j Preparing and submitting Form FNS-667 and other reports to FNS.

2 Acquisition cost of, or depreciation expense or use allowance on, capital assets used in performing functions such as those listed in subparagraph 1, above. Some costs (e.g., purchases over \$25,000) may require prior grantor approval.

3 Maintenance and repairs to capital assets used in performing functions such as those listed in subparagraph 1, above.

4 Automated processing of cash advances to, and claims for reimbursement submitted by, ERAs.

5 Telephone, postage, and other media used to initiate communication with the applicable FNSRO and with ERAs.

6 Printing materials directly related to the State agency's role as the Statewide administering agency for the program. Such materials include, but are not limited to, informational brochures on TEFAP for Statewide dissemination to the public, report forms and operating instructions for use by ERAs, announcements of household eligibility criteria, notices disseminating or explaining new policies or regulatory amendments from FNS, additional copies of program regulations, and TEFAP Distribution Plan, etc.

7 Appropriate portion of fees charged by independent auditors auditing the State in accordance with 7 CFR 3052.

IX STATE-PAID ERA COSTS

A General. If a State agency engages in transactions normally performed by ERAs, the costs incurred by the State in such transactions are State-paid ERA costs.

B Examples. State-paid ERA costs may include, but are not limited to, the following:

- engaged in:
- 1 Salaries and fringe benefits of State or State-paid ERA employees
 - a Supervising and coordinating the services of volunteers;
 - b Determining households' eligibility to receive USDA commodities;

- c Issuing commodities at TEFAP distribution sites;
- d Arranging for, or conducting, audits of TEFAP ERAs, including TEFAP distribution sites in accordance with 7 CFR 3052, as applicable;
- e Preparing, approving, and submitting claims for reimbursement and/or reports to the State agency;
- f Management functions associated with the transportation of commodities between distribution sites operated or overseen by the ERA; and
- g Preparing and disseminating notices to the general public concerning the availability of TEFAP benefits, eligibility criteria, dates and locations for commodity issuance, etc.

2 Costs incurred for the storage, transportation, distribution, and handling of commodities made available to ERAs for distribution. Such costs may include, but are not limited to, the following:

- a Salaries and fringe benefits of State and State-paid ERA employees engaged in the physical handling, storage, and transportation of commodities;
- b Fees charged by commercial warehouse operators and common carriers for storage and transportation of the commodities;
- c Acquisition cost of, or depreciation expense or use allowance on, equipment used in the physical handling, storage, and transportation of the commodities; and
- d Maintenance and repair of equipment described in subparagraph c, above.

3 Appropriate portion of fees charged by independent auditors engaged by the ERA, or by the State agency to audit the ERA, in accordance with 7 CFR 3016.26 or 3051, as applicable.

4 Charges for printing materials relating to the ERA's role as service outlet for program benefits. Such materials may include, but are not limited to, notices to the general public concerning TEFAP household eligibility criteria, distribution dates and locations, operating instructions for volunteers at TEFAP distribution sites, etc.

5 Charges for telephone, postage, and other media used to initiate communication with the State central office, volunteers, other community organizations, local government agencies, and the general public.

X STATE-ONLY OPERATIONS.

In some States all, or almost all, activities relating to TEFAP are carried out by State employees; no separate entity executes an agreement with the State agency and is designated as an ERA. Since in this situation the State performs all functions that would normally be performed by ERAs, the 40 percent pass-through requirement is met.

A State agencies of such States must classify costs as State-level costs or State-paid ERA costs as follows:

1 Costs relating to operational functions normally performed by ERAs must be assigned to the ERA level. For example, the salary and fringe benefits of an employee in a State field office for time devoted to preparing reports of commodities issued and costs incurred, for submission to the State central office, would be a State-paid ERA level cost.

2 Costs incurred for administrative functions normally performed by State agencies should be assigned to the State level. For example, the salary and fringe benefits of an employee in the State central office for time devoted to preparing a Form FNS-667 for submission to FNS would be a State level cost.

3 Costs that cannot be readily classified should be referred to the applicable FNSRO.

B State cash and in-kind contributions to functions covered by subparagraph 1.a., above, cannot be counted toward meeting the State match requirement. State cash and in-kind contributions to functions (whether treated as direct or indirect costs) covered under subparagraph 1.b., above, can be counted toward the match, if they are incurred in connection with the provision of meals or commodities to the needy in situations of emergency and distress, i.e., functions which in other States would be performed by EFOs.

XI LOCAL-PAID ERA COSTS

Federal grant allocation funds may be furnished to EFOs for such costs either through cash advances or through reimbursement payments. Cash advances must, however, be adjusted based on actual costs incurred. If the advance method is used, the State agency may count toward the 40-percent pass-through requirement only that portion of the advance that the EFO actually spent and documented as allowable program costs.

The guidelines presented in section IX, above, for identifying State-paid ERA costs also apply to local-paid costs. For State-paid ERA costs, the State agency pays the bill directly. For local-paid costs, the ERA pays the bill and files claims for reimbursement from the State agency or maintains records of allowable administrative costs incurred that equal or exceed advances received.

RONALD J. VOGEL
Acting Deputy Administrator
for Special Nutrition Programs