

THE EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP) SUB-OUTLET AGREEMENT THIS AGREEMENT, made and entered into as of the _____ day of _____ by and between the _____
(First Party)
here in after referred to as the Emergency Feeding Organization (EFO) and _____
(Second Party) (Address of Second Party)
hereinafter referred to as the Second Party,

WITNESSETH, THAT:

Whereas, the EFO, in the exercise of its lawful duties, has determined upon the necessity of the performance of the following functions briefly describes as:

The distribution of commodities made available by the United States Department of Agriculture pursuant to 7 U.S.C. 612c to eligible soup kitchens, food banks, food pantries and emergency feeding organizations in accordance with 7 CFR Part 250 and 251 and the Hunger Prevention Act of 1988, P.L. 100-435.

Whereas, the Second Party is available, and eligible as a _____ (7 CFR 251.5 (a) (3)) to perform this function, and the EFO desires that the Second Party perform this function, beginning _____ through _____.

Now, therefore, it is hereby and herewith mutually agreed by and between the parties hereto as follows:

- 1. The Second Party shall comply with the following requirements and procedures as specified in the Commodities Procedural Instructions for Soup Kitchens and Food Pantries:

Eligibility for Soup Kitchens and Food Pantries:

- a. Second Party shall not charge any individual for USDA foods distributed, or services related to the distribution of USDA foods, or request contributions from recipients to defray administrative costs. Maintain an accurate Commodity Application Register for sites distributing food to households for home consumption, including; 1) the number of households to whom food is distributed; 2) the names and addresses of all persons or **households** receiving foods; 3) the type of documentation used to determine need (income eligibility); 4) the distribution rate used for each item per distribution; 5) dates of food distribution; 6) household size; 7). A "household" is defined as an economic unit which is a group of related or unrelated people who share all significant income and expenses of its members, and is characterized by sharing expenses such as food, housing, medical costs, and household insurance. More than one economic unit may live in the same household. Separate economic units living in the same household are characterized by prorating of expenses and have economic independence of each other.
- b. The Second Party shall distribute USDA food for consumption only to households whose eligibility can be determined by self-declaration of gross income through completion of an Income Declaration Form Commodity Application Register (KY-FD-30-FB) indicating income below the levels shown for the appropriate household size in the table below. (Income scale is based on current food stamp eligibility criteria as determined by the state. Said criteria are subject to change as required by federal or state law or regulation.) The EFO reserves the right upon written notice to the Second Party to adjust the eligibility criteria as necessary.

INCOME ELIGIBILITY SCALE HOUSEHOLD ELIGIBILITY FOR USDA FOODS
(Effective March 7, 2025)

Household Size	Per Month
1	\$ 2,413
2	\$ 3,261
3	\$ 4,109
4	\$ 4,957
5	\$ 5,805

	6	\$ 6,653
	7	\$ 7,501
	8	\$ 8,349
Each Additional		
Family Member		\$ +848

- c. The Second Party shall distribute foods to *eligible households* in the amounts shown in the Household Distribution Rate (KY-FD-54-FB).
- d. Households shall reside in the specified geographic location served by the EFO at the time of applying for assistance, but length of residency shall not be used as an eligibility criterion.
- e. State agency has the discretion to allow a for-profit company to provide home delivery of TEFAP food packages, if certain conditions are met. First, consistent with 7 CFR 250.4(c) and (d), an agreement or contract must be in place between the company and local agency which ensures that the delivery service adheres to all TEFAP program regulations (see also 7 CFR 247.4). At a minimum, a contract or agreement for these delivery services must require the company to provide:
 - a. Safe storage and transportation of the foods in compliance with program regulations at 7 CFR 250;
 - b. Verification of the identity of each TEFAP participant through a review of the participant's, or proxy's, identification before issuing the TEFAP food package, consistent with 7 CFR 247.10(b);
 - c. All applicable records required by the State and local agency; and
 - d. An assurance that the privacy of participants will be maintained, consistent with 7 CFR 247.36.
 - e. Civil Rights training for delivery personnel.

If the local agency plans to use TEFAP administrative funds to procure this service, they must follow procedures outlined in 2 CFR 200, subpart E, and all applicable State and local procurement regulations. If the for-profit company is donating its services, local agency does not need to follow procurement regulations, but must still have a contract or service agreement in place, preferably a no-cost contract or agreement.

In order to conduct deliveries in this way, Local agency must be aware that employees of the for-profit delivery service are not permitted to carry out key local agency responsibilities, such as making participant eligibility determinations (see 7 CFR 247.5(c)(1)-(8) listing the major local agency responsibilities). Such employees may not be considered proxies for participants. Additionally, CSFP food packages may not be dropped off at a door or left unattended at a pick-up location due to the requirement at 7 CFR 247.10(b) that participants or their proxies present identification before being issued a food package.

2. KIDS CAFÉ, BACKPACK AND SIMILIAR PROGRAMS:

- a. Distribution System
SA will allow a Local Distributing Agency running a Kid's Café, backpack program or similar Program to distribute TEFAP foods to children on a weekly basis while also allowing the same or other ERAs to distribute TEFAP foods at other sites on a monthly basis.
- b. Recordkeeping
State Agency will allow a Local Distributing Agency running a Kid's Café, backpack program or similar program to have the program staff maintain a list of households receiving backpacks at each distribution rather than having the household sign for each backpack.
- c. Eligibility
The State eligibility also will include an automatic income eligibility of a household if a child in the household receives free or reduced-price meals through the National School Lunch Program (NSLP).

3. The Second Party shall comply with the following requirements and procedures as specified in the Commodities Procedural Instructions for Soup Kitchens and Food Pantries, Kid's Café, backpack program and similar programs:

- a. Shall order from the commodities made available by the EFO and accept only the amount of commodities which will be used without waste to serve the eligible participants. In the event of any disagreement over amounts ordered or to be made available, the determination of the EFO is final.
- b. Shall provide facilities, adequate in the opinion of the EFO, for the handling, storage and distribution of commodities and properly safeguard the commodities against theft, spoilage, and other loss. Donated foods are not to be sold, exchanged or otherwise disposed of without the PRIOR approval of the EFO.
- c. Shall maintain accurate and complete records of receipt, disposal and inventory of commodities Consolidated Report (KY-FD-27-FB). Ensure that Soup Kitchens keep daily records of the number of meals served, date served and type of meal served (breakfast, lunch, dinner). The report shall be submitted to the EFO within five (5) days following the end of the month.
- e. Shall submit such **reports** as are required by the EFO in a timely fashion. Failure to submit timely reports may be a basis for cancellation of this agreement.
- f. All instances of lost or unaccounted for commodities are to be recorded on a Donated Food Loss Report (KY-FD-25-FB) and submitted to the EFO within five (5) days of the discovery of the loss. Lost commodities are those which, for any reason cannot be demonstrated by records or other evidence, satisfactory to the EFO, to have been delivered to or to be available in good condition for delivery to, needy persons or households for whom they were donated by the United States Department of Agriculture. Commodities may be lost through theft, damage, spoilage, infestation, improper distribution, sale or exchange, diversion to an improper use or similar causes.
- g. The Second Party accepts full responsibility for compliance with the provisions of this agreement, including liability for any commodities lost through its negligence.
- h. The EFO with prior approval from the Kentucky Department of Agriculture reserves the right upon written notice to the Second Party to adjust the distribution rate set forth in the Household Distribution Rate as necessary based upon the amount of commodities made available by USDA to the state for distribution to qualifying participants. The Second Party specifically agrees that its rate of distribution will not exceed the statewide uniform rate as determined by the Kentucky Department of Agriculture. The Second Party may reduce its rate of distribution of a commodity(s) on the condition there is/are an insufficient quantity of the commodity(s) to ensure all needy households will be served. However, if deemed necessary, the rate may be reduced with prior approval from the EFO. In addition, households will be permitted to refuse any part of an allotment that they do not intend to use.
- i. In accordance with 7 CFR Section 251.9(6)(g), the distribution of commodities shall not be used as a means for furthering the political interest of any individual party.
- j. The Commodities Procedural Instructions for Soup Kitchens and Food Pantries dated July 1, 1992, and revised 1997 Procedural Instructions for The Emergency Assistance Program (TEFAP) is hereby incorporated as if attached.
- k. The EFO retains the right to exclude any local organizations from program participation. The EFO is to be notified immediately, in writing, of a cancellation of a local agreement and the reasons for cancellation.
- l. Second Party accepts full responsibility for all foods until they have been distributed to eligible recipients.
- m. Second Party agrees not to diminish normal expenditures for food because of receipt of federal food commodities, but to use this distribution as a supplement to their other food sources.
- n. Second Party agrees to comply with instructions of the EFO in regard to transfer of all donated commodities remaining in EFO's possession or control at the time of termination.

- o. Second Party assumes all risks of loss and to indemnify and hold the EFO, its offices, agents and employees, harmless from and against any and all liabilities, demands, claims, suits, losses, damages, causes of action, fines, or judgments, including costs, attorneys' and witnesses' fees, and expenses incident thereto, for injuries (including death) to persons and for loss of, damage to, or destruction of property arising out of or in connection with this contract.
- p. Second Party specifically understands and agrees that the EFO may revise the terms of this contract to reflect the requirements of any USDA approved state plan for emergency food distribution authorized by the provisions of Public Law 98-8 (7 U.S.C. 612c) as amended.

4. TERMINATION

Either party shall have the right to terminate this agreement for convenience at any time upon 30 days written notice served upon the other party by certified or registered mail with return receipt requested. In addition, either party may terminate this agreement immediately for cause upon written notice served upon the other party by registered or certified mail with return receipt requested.

5. CIVIL RIGHT ASSURANCE STATEMENT

The program applicant hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, 28 CFR Part SO.3 and 42; and FNS directives and guidelines, to the effect that, no person shall, on the grounds of race, color, national origin, sex, religious creed, disability, age, political beliefs, be excluded from participation in, be denied benefits of, or otherwise be subject to discrimination under any program or activity for which the program applicant receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

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, disability, age, or reprisal or retaliation for prior civil rights activity.

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/ad-3027.pdf>, 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:

Mail:

U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
Fax: (833) 256-1665 or (202) 690-7442; or
Email: program.intake@usda.gov

This institution is an equal opportunity provider.

6. DISCRIMINATION (BECAUSE OF HANDICAP) PROHIBITED

- a. The Second Party agrees to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, P.L. 93-112, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity receiving federal assistance.
- b. The Second Party agrees to comply with the provisions of the Americans with Disabilities Act of 1990, P.L. 101.336.

7. ACCESS TO AND MAINTENANCE OF RECORDS

- a. The Second Party agrees that the EFO and/or the USDA, Kentucky Department of Agriculture, the Comptroller General of the United States and/or the Kentucky Auditor of Public Accounts, and/or any of their duly authorized representative or agents including independent auditors, shall have access to any books, documents, papers, and records of the Second Party which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcriptions. Information from these records shall be provided to authorized personnel only.
- b. The Second Party agrees to maintain all records pertaining to this contract for a period of not less than (3) years plus current year after all matters pertaining to this contract (i.e., audit, settlement of audit exceptions, disputes,) are resolved in accordance with applicable federal and/or state laws, regulations, and policies (except as may otherwise be specified in this contract).
- c. The Second Party agrees to permit staff of the EFO, persons acting for the EFO, and/or staff designated by appropriate federal and state agencies, to monitor and evaluate services being performed. The Second Party also agrees to submit all records and documentation of service provisions in regard to contract services when requested for monitoring purposes.

8. CONFLICT-OF-INTEREST LAWS AND PRINCIPLES

The Second Party hereby certifies by his/her signature hereinafter that he/she is legally entitled to enter into the subject contract with the EFO and certifies that he/she is not and will not be violating either directly or indirectly any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390, 210.110, 210.990 (1), or any other applicable statute) or principle by the performance of this contract.

9. CHOICE OF LAW AND FORUM PROVISION

All questions as to the execution, validity, interpretation and performance of this Agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this Agreement shall be filed in the Commonwealth of Kentucky.

10. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION,
LOWER TIER COVERED TRANSACTIONS:

The Second Party hereby certifies the following by signing of this agreement:

- a. That neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- b. The instructions for certification, which are an integral part of this certification, have been read and agreed to by the Second Party.

SECOND PARTY (SUB-OUTLET)

Authorized Official
Second Party Signature

EMERGENCY FEEDING
ORGANIZATION (EFO)

Authorized EFO
Official Signature