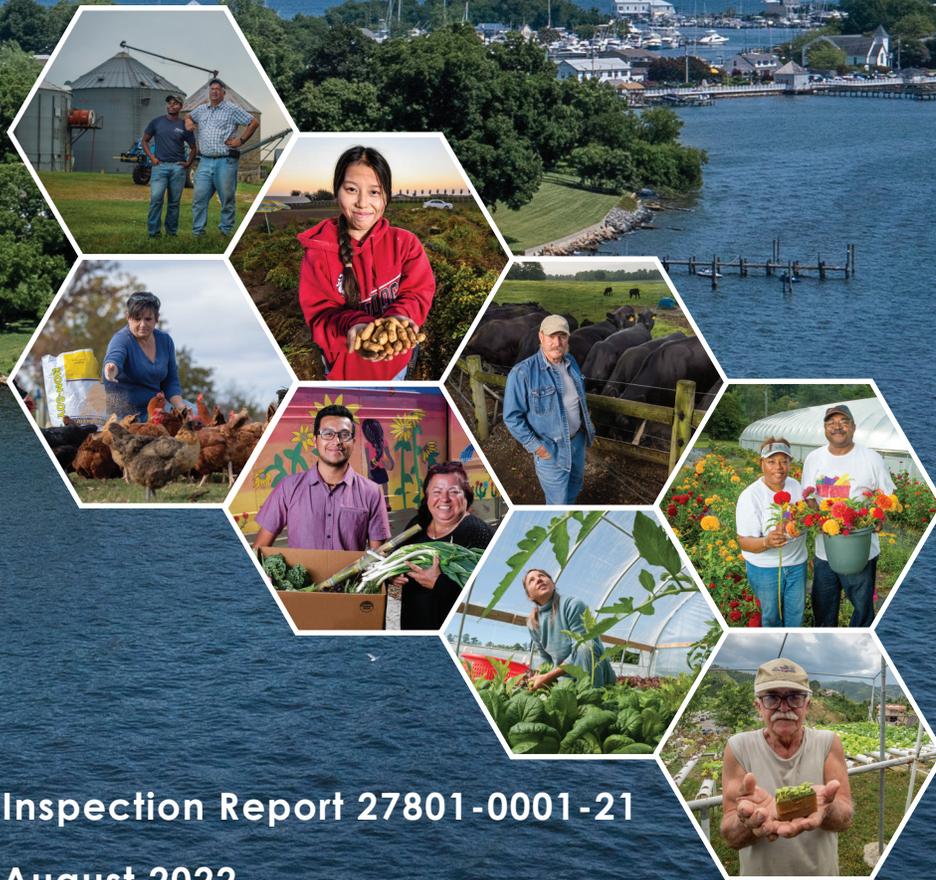




COVID-19—Oversight of the Emergency Food Assistance Program—Final Report



Inspection Report 27801-0001-21

August 2022

COVID-19—Oversight of the Emergency Food Assistance Program

Inspection Report 27801-0001-21

In our final report, we determined what TEFAP flexibilities were available to States during the pandemic and FNS' oversight of the States and Eligible Recipient Agencies' compliance with administrative fund requirements.

OBJECTIVE

The final two objectives of our inspection were to determine what TEFAP flexibilities FNS made available to the State agencies to assist them in continuing to provide food during the pandemic; and what FNS did to ensure the State agencies and ERAs were properly accounting for the program's administrative funds and that the funds were being used for allowable purposes.

REVIEWED

We evaluated the process FNS used to approve requests from State agencies received between March 1 and October 31, 2020, to implement flexibilities, including determining what flexibilities FNS approved to assist State agencies to continue to provide food during the pandemic. Additionally, we reviewed and evaluated FNS' oversight of the State agency and ERAs' compliance with administrative funds requirements in FY 2021.

RECOMMENDS

We recommend FNS establish and implement written procedures for its TEFAP State plan amendment process; work with the regional offices to confirm that TEFAP State plans reflect current operations and are approved in writing; perform a review of the TEFAP program-specific ME module to provide clear instructions for retaining documentation; and provide ME reviewers with training.

WHAT OIG FOUND

The Emergency Food Assistance Program (TEFAP) is a United States Department of Agriculture (USDA) program that provides supplemental food assistance to persons in need. TEFAP provides Federally purchased commodities (USDA-foods) to States and territories (States) to distribute to Eligible Recipient Agencies (ERA) serving low-income households and individuals. TEFAP also provides administrative funds to cover States' and ERAs' costs associated with the processing, storage, and distribution of USDA-foods and foods provided through private donations.

We concluded that State agencies made 107 requests to the Food and Nutrition Service (FNS) for flexibilities to provide food to people in need during the pandemic. However, in 6 of 107 instances, State agencies did not request flexibilities in writing as required by Federal regulation. For 14 of 107 requests, FNS regional office personnel did not ensure they provided written approval of the State agencies' requests prior to implementation, as directed by the FNS National Office. Additionally, FNS approved a State agency's request to implement an unallowable flexibility. This occurred because FNS did not have the necessary written procedures, without which FNS has reduced assurance that the flexibilities State agencies implemented are allowable and documented.

Finally, we found that the management evaluation (ME) reviewers did not support their determinations of State agency and ERA compliance or non-compliance with Federal and FNS program requirements in their workpapers. FNS National Office personnel could not identify a specific reason why the ME reviewers did not adhere to the ME review guidance documentation requirements to support their determinations. As a result, FNS does not have reasonable assurance that the ME reviewers adequately assessed State agency and ERA compliance with Federal and FNS program requirements.

FNS agreed with our findings and recommendations, and we accepted management decision on all four recommendations.



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: August 18, 2022

INSPECTION

NUMBER: 27801-0001-21

TO: Cindy Long
Administrator
Food and Nutrition Service

ATTN: Melissa Rothstein
Director
Office of Internal Controls, Audits and Investigations

FROM: Yaris Rivera Rojas
Acting Assistant Inspector General for Audit

SUBJECT: COVID-19—Oversight of the Emergency Food Assistance Program

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated your response, and the Office of Inspector General's position, into the relevant sections of the report. Based on your written response, we are accepting management decision for all four recommendations in the report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than OCFO, please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our inspection fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<https://usdaoig.oversight.gov>) in the near future.

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Background and Objectives

Background

The Emergency Food Assistance Program (TEFAP) is a United States Department of Agriculture (USDA) program that provides supplemental food assistance to persons in need.¹ TEFAP provides Federally purchased commodities² (USDA-foods)³ to States and territories (States)⁴ to distribute to Eligible Recipient Agencies (ERA)⁵ serving low-income households and individuals. TEFAP also provides food funds that can be converted to administrative funds to cover States' and ERAs' costs associated with processing, storing, and distributing USDA-foods and foods provided through private donations.

The Food and Nutrition Service (FNS) administers TEFAP in collaboration with USDA's purchasing agencies: Agricultural Marketing Service, Farm Service Agency, and Commodity Credit Corporation. At the Federal level, FNS is responsible for allocating aid to States and for coordinating the ordering, processing, and distribution of USDA-foods. FNS allocates and distributes food funds according to a formula based on each State's population of low-income and unemployed persons. State agencies⁶ administer TEFAP at the State level. State agencies are responsible for distributing USDA-foods and funds to ERAs and for general oversight of the program at the local level. Figure 1 depicts the general responsibilities of TEFAP and the flow of USDA-foods and funds through TEFAP.

¹ In 1981, TEFAP was first authorized to distribute surplus commodities in order to help supplement the diets of low-income Americans, including seniors. The Emergency Food Assistance Act of 1983 authorized TEFAP to provide other types of surplus foods.

² Commodities include fruits, vegetables, meats, and grains, among other foods.

³ The term "commodities" is no longer commonly used, as it has been replaced by "donated foods" or "USDA-foods".

⁴ "States" are defined as all 50 States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands. Therefore, for the purpose of this report, there are a total of 55 States.

⁵ ERAs include emergency feeding organizations, such as food banks, food pantries, soup kitchens, and charitable institutions, which receive USDA-foods and/or administrative funds.

⁶ Examples of State agencies that administer TEFAP include entities such as the Department of Health and Human Services, the Department of Social Services, the Department of Agriculture, or the Department of Education.

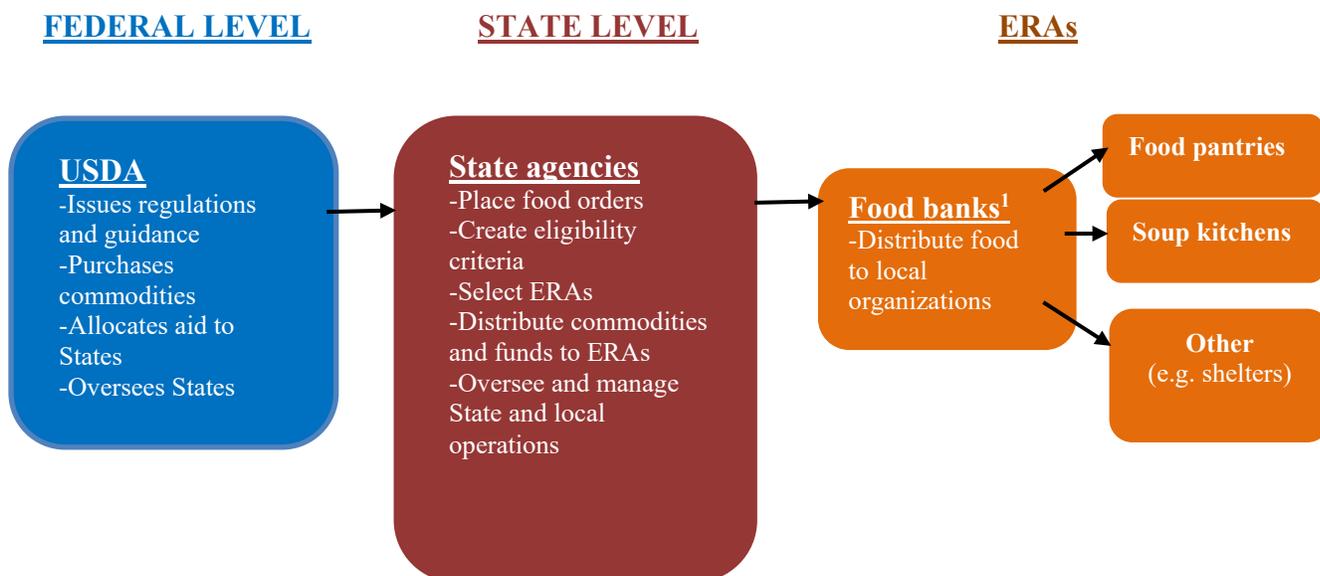


Figure 1. Flow of Food and Funds through TEFAP

1. States may distribute food to ERAs directly or task ERAs with food distribution to other ERAs. States often delegate this responsibility to food banks.

Section 27 of the Food and Nutrition Act authorizes mandatory funding for TEFAP.⁷ In fiscal year (FY) 2020, Congress appropriated more than \$397 million to TEFAP: \$317.5 million for USDA-foods and more than \$79.6 million for food distribution costs.⁸

In January 2020, the Secretary of Health and Human Services declared the coronavirus disease 2019 (COVID-19) pandemic⁹ a public health emergency for the United States. The pandemic resulted in catastrophic loss of life and substantial damage to the global economy, societal stability, and global security. In response to this unprecedented global crisis, Congress and the Administration took a series of actions, including providing additional funding for programs serving low-income households. The Families First Coronavirus Response (FFCR) Act,¹⁰ enacted on March 18, 2020, provided \$400 million for TEFAP under the Commodity Assistance Program (CAP). Furthermore, the Coronavirus Aid, Relief, and Economic Security (CARES) Act,¹¹ enacted on March 27, 2020, provided an additional \$450 million in supplemental funding to CAP for TEFAP. The CARES Act also required that funds be used to “prevent, prepare for, and respond to coronavirus.” The FFCR Act and CARES Act did not change TEFAP’s regulatory requirements; however, these Acts increased FY 2020 funding by \$850 million.

⁷ The Food and Nutrition Act of 2008, Pub. L. No. 88–525 (Aug. 1964), amended by Pub. L. No. 116-94 (Dec. 2019).

⁸ The Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94 (Dec. 2019).

⁹ COVID-19 is an infectious disease caused by a newly discovered coronavirus. On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency for the United States, retroactive to January 27, 2020. On March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic.

¹⁰ Families First Coronavirus Response Act, Pub. L. No. 116-127 (Mar. 2020).

¹¹ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (Mar. 2020).

Figure 2 depicts the TEFAP funding from the FFCR Act and CARES Act.

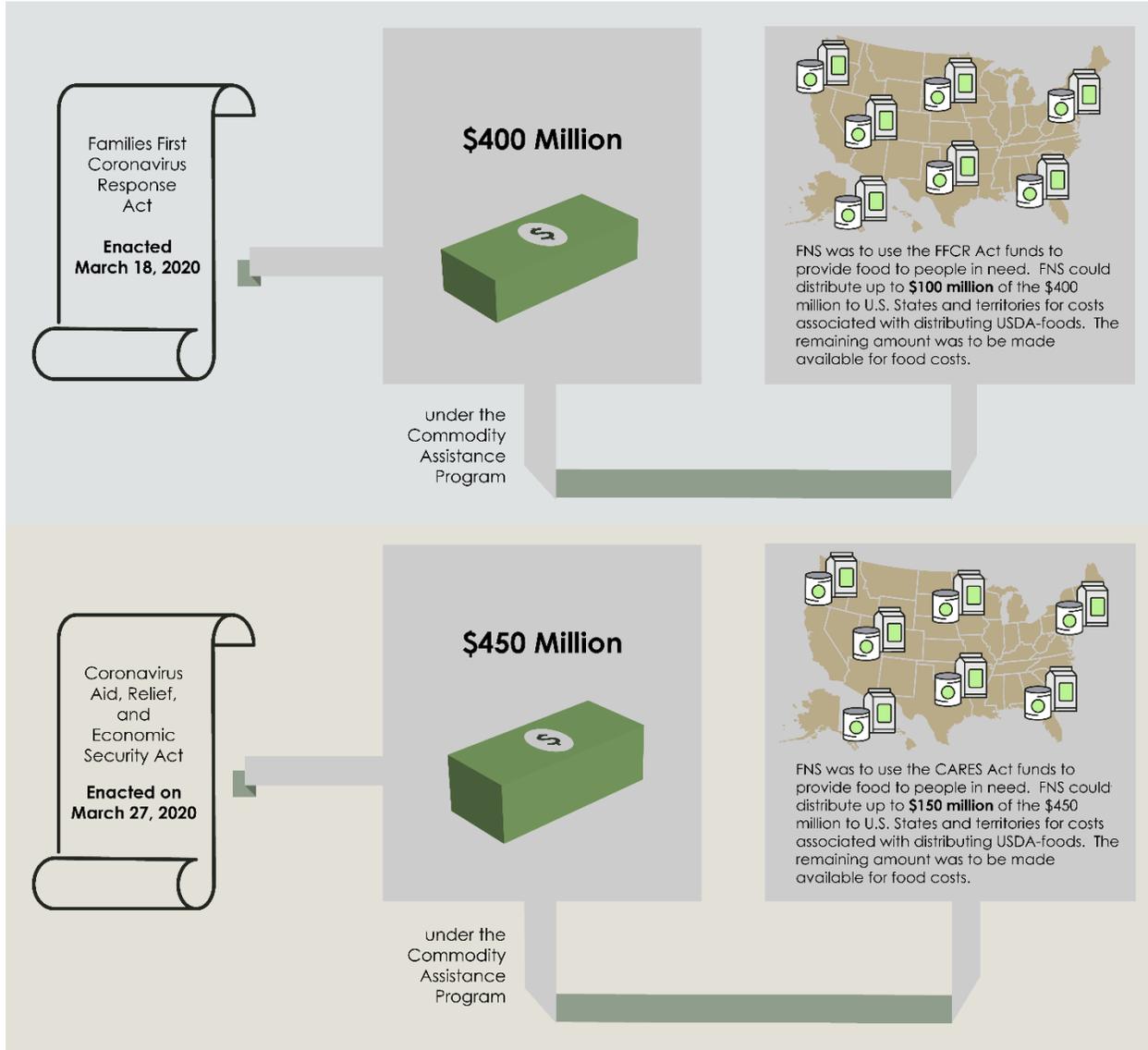


Figure 2: FFCR Act and CARES Act Funding

Objectives

Our inspection objectives were to determine:

1. What criteria did FNS use to approve States for food and administrative funds provided under the FFCR and CARES Acts?
 - a. How much did FNS allocate to each State for food assistance and administrative funds provided under each act?
 - b. Did FNS deny any State request, or portion of a request, for food assistance and/or administrative funds provided under each act? If so, why and how much?

- c. Did FNS use different criteria to approve States for food assistance and administrative funds under each act?
 - d. What impact, if any, could changes to the criteria have on the integrity of the program?
2. What TEFAP flexibilities/exceptions to program requirements did FNS make available to State agencies to assist them in continuing to provide food to people in need during the pandemic?
 - a. What TEFAP flexibilities/exceptions did FNS approve for implementation?
 - b. Did FNS deny any flexibilities/exceptions? If so, what were the reasons?
 - c. What guidance has FNS provided to States for promoting TEFAP flexibilities/exceptions to the public?
 - d. How did FNS attain assurance that States had actively promoted TEFAP flexibilities/exceptions to the public?
 - e. Did FNS see an increase in program participation due to outreach implemented by the States?
3. What risks has FNS identified related to the safe and efficient distribution of USDA-food assistance provided to States during the pandemic?
 - a. Did FNS accept any risk related to the safe distribution of food assistance without implementing an offsetting internal control?
 - b. What controls did FNS establish to manage risks it did not accept?
4. What did FNS do to ensure that States and eligible recipient agencies were properly accounting for the program's administrative funds and that they were being used for allowable purposes?

In this final report, we are addressing Objectives 2 and 4.¹²

¹² We issued 27801-0001-21(1) on Objective 3 in August 2021, and 27801-0001-21(2) Objective 1 in October 2021. (See Exhibit A). In Exhibits B and C of this report, we included the changes in FFCR Act and CARES Act administrative funds FNS reported was accepted by each State agency from what was previously reported in Exhibits C and D of COVID-19—Oversight of the Emergency Food Assistance Program—Interim Report, 27801-0001-21(2).

Objective 2: What TEFAP flexibilities/exceptions to program requirements did FNS make available to State agencies to assist them in continuing to provide food to people in need during the pandemic?

In March 2020, FNS issued a guidance document¹³ to the State agencies, which provided an overview of the changes to program operations or administration—or flexibilities—available to the State agencies so that they could continue to provide food to people in need during the pandemic. According to FNS, the flexibilities described in its guidance were consistent with those allowed under regular TEFAP operations and were not specific to the pandemic. State agencies that wanted to implement flexibilities were required to submit a written explanation (i.e., State plan amendment) of the flexibilities they were seeking to FNS’ regional office for the regional office’s review and approval.¹⁴ We describe the flexibilities FNS approved for implementation in Objective 2a, below.

a. What TEFAP flexibilities/exceptions did FNS approve for implementation?

We found that 50 of 54 States¹⁵ implemented flexibilities to assist them in continuing to provide food to people in need during the pandemic. FNS approved all State agencies’ requests to implement flexibilities, including:

- Changes to income eligibility—State agencies had the flexibility to expand the participant eligibility requirements to continue to feed people in need.¹⁶
- Implementation of social distancing measures—State agencies had the flexibility to implement social distancing measures to safely provide food to TEFAP recipients. The social distancing flexibility included allowing State agencies to waive signature requirements, allow collection of addresses through alternative methods (i.e., over the phone), and amend distribution methods to deliver food to TEFAP recipients (i.e., drive-through distribution of food boxes).
- Other flexibilities—State agencies implemented other allowable flexibilities, including the temporary suspension of the State agency’s onsite monitoring of ERAs, changes to residency requirements, and more frequent distribution of USDA-foods.

¹³ USDA FNS, *The Emergency Food Assistance Program (TEFAP) Flexibilities for State Agencies*, FNS-GD-2020-0025 (Mar. 2020).

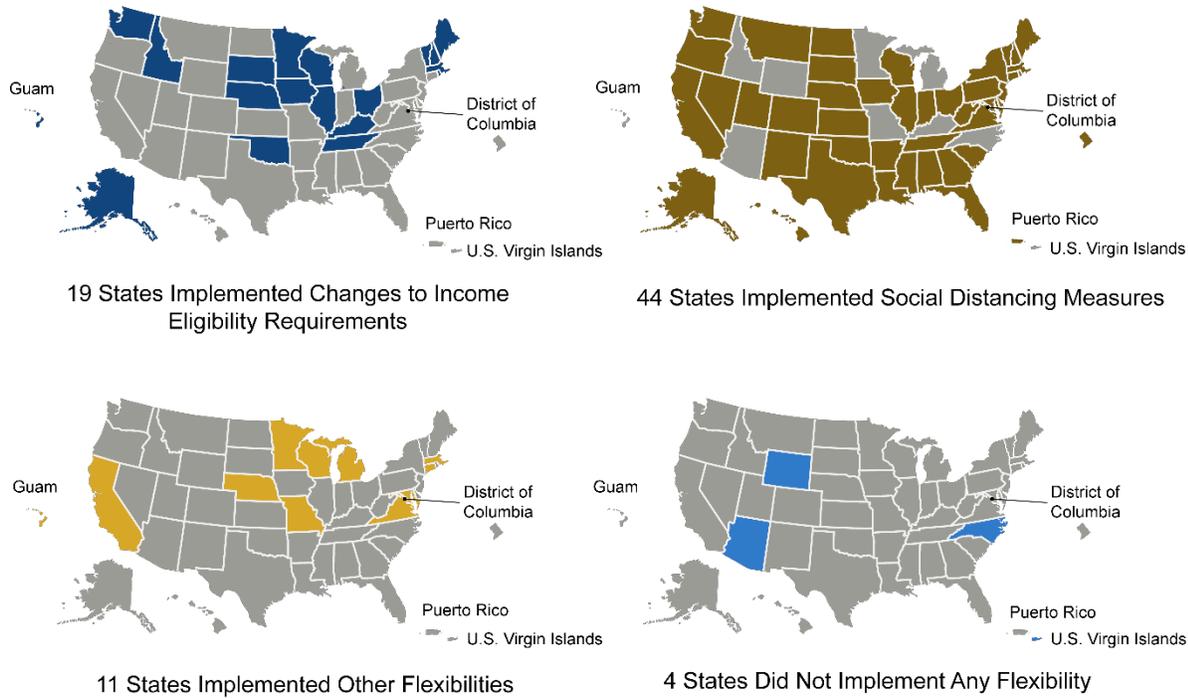
¹⁴ USDA FNS, *The Emergency Food Assistance Program (TEFAP) Flexibilities for State Agencies*, FNS-GD-2020-0025 (Mar. 2020).

¹⁵ A total of 55 States received TEFAP pandemic funding. However, unlike the other 54 States, the Northern Mariana Islands received its TEFAP pandemic funding as part of a block grant program called the Nutrition Assistance Program (NAP). The FNS Western Regional Office manages the NAP block grant. The Northern Mariana Islands designs its own program rules for its NAP, and FNS approves these rules through an annual Memorandum of Understanding.

¹⁶ Each State agency establishes uniform Statewide criteria for determining the eligibility of households to receive USDA-foods. This includes income based standards and methods by which households may demonstrate eligibility.

Figure 3, below, depicts the flexibilities implemented by the States.

TEFAP Flexibilities Implemented by the States



NOTE: These maps include the 50 U.S. States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam. Maps are not shown to scale.

While FNS approved the implementation of the TEFAP flexibilities listed above, we found that FNS did not ensure that all State agency officials submitted a written amendment to their State plan each time a flexibility was requested to reflect all the flexibilities that State agencies implemented and ensure regional office personnel consistently approved all requests in writing, as required.

FNS Needs to Develop and Implement Written Procedures for the State Plan Amendment Process

In 6 of 107 instances, we found that State agencies did not request flexibilities in writing, as required by Federal regulation.^{17, 18, 19} Additionally, we found FNS regional office personnel did

¹⁷ 7 C.F.R. § 251.6.

¹⁸ Through our review of documentation that FNS provided, we concluded the State agencies made 107 requests for changes in their program operations to provide food to people in need during the pandemic. FNS approved a total of 106 of the 107 requests verbally or in writing. One State agency implemented changes in program operations without FNS' verbal or written approval.

¹⁹ Requests could include more than one change in program operations. For example, a State agency may have requested to implement social distancing measures and requested a change to income eligibility criteria in the same request.

not ensure they provided written approval for 14 out of 107 requests for flexibilities before the State agency implemented the changes, as directed by the FNS National Office. Lastly, we found FNS regional office personnel approved a State agency's request to implement an unallowable flexibility. This occurred because FNS relied on the Federal regulation as its State plan amendment policy. The FNS National Office did not develop written procedures necessary to ensure that regional office personnel and State agency officials complied with Federal²⁰ and agency requirements.²¹ Without written procedures, FNS has reduced assurance that the flexibilities State agencies implement are allowable and properly documented. Additionally, without documenting approved flexibilities, FNS may not be able to fully monitor and assess State agencies' compliance with Federal regulations and State plans.²²

Federal regulation requires State agencies to submit a distribution plan, or a State plan, to the FNS regional office for approval.²³ Once approved, State plans are permanent. To amend State plans, State agencies must submit an amendment to reflect any changes in program operations or administration described in the State plan, or at the request of FNS, to the appropriate FNS regional office. The FNS National Office guidance clarified that State agencies' requests must be submitted in writing (e.g., State plan amendment) to the FNS regional office for its review.²⁴

FNS National Office personnel stated they directed their regional office personnel to work with the State agencies to make changes to their State plans through the amendment process and to document the amendment requests and approvals in writing.

The pandemic, according to FNS National Office personnel, caused the agency to receive an unusually high number of requests from State agencies for flexibilities. In addition, FNS National Office personnel stated that, given the urgency of the situation, each regional office identified ways to expedite its review of these requests for flexibilities. While FNS regional office personnel were able to expeditiously review and approve most of the requests in writing, the agency did not ensure it documented all requests and approvals in writing, as required.

We found that FNS regional office personnel did not ensure State agency officials complied with requirements to submit a written amendment to the State plan for FNS' review and approval when the State agencies requested flexibilities to their TEFAP operations. Additionally, FNS regional office personnel did not ensure they approved all requests in writing, as required.

²⁰ 7 C.F.R. § 251.6. FNS adopted 7 C.F.R. § 251.6 as its policy to oversee the State plan process, which includes the requirement for State agencies to submit an amendment request and receive approval from the FNS regional office for any changes in program operations or administration.

²¹ USDA FNS, *The Emergency Food Assistance Program (TEFAP) Flexibilities for State Agencies*, FNS-GD-2020-0025 (Mar. 2020).

²² FNS conducts management evaluations (ME) of State agency compliance with Federal regulations and the approved State plan, including any amendments.

²³ Federal regulation refers to these plans as both "State plans" and "distribution plans." In this report we refer to it as a State plan.

²⁴ USDA FNS, *The Emergency Food Assistance Program (TEFAP) Flexibilities for State Agencies*, FNS-GD-2020-0025 (Mar. 2020).

Figure 4, below, depicts the method of request for flexibilities.²⁵



Figure 4: States' Requests for Flexibilities

²⁵ During our inspection, FNS provided documentation that, after implementing the flexibilities, State agencies submitted four of the six verbal requests in writing.

Figure 5, below, depicts the method of approval for flexibilities.²⁶

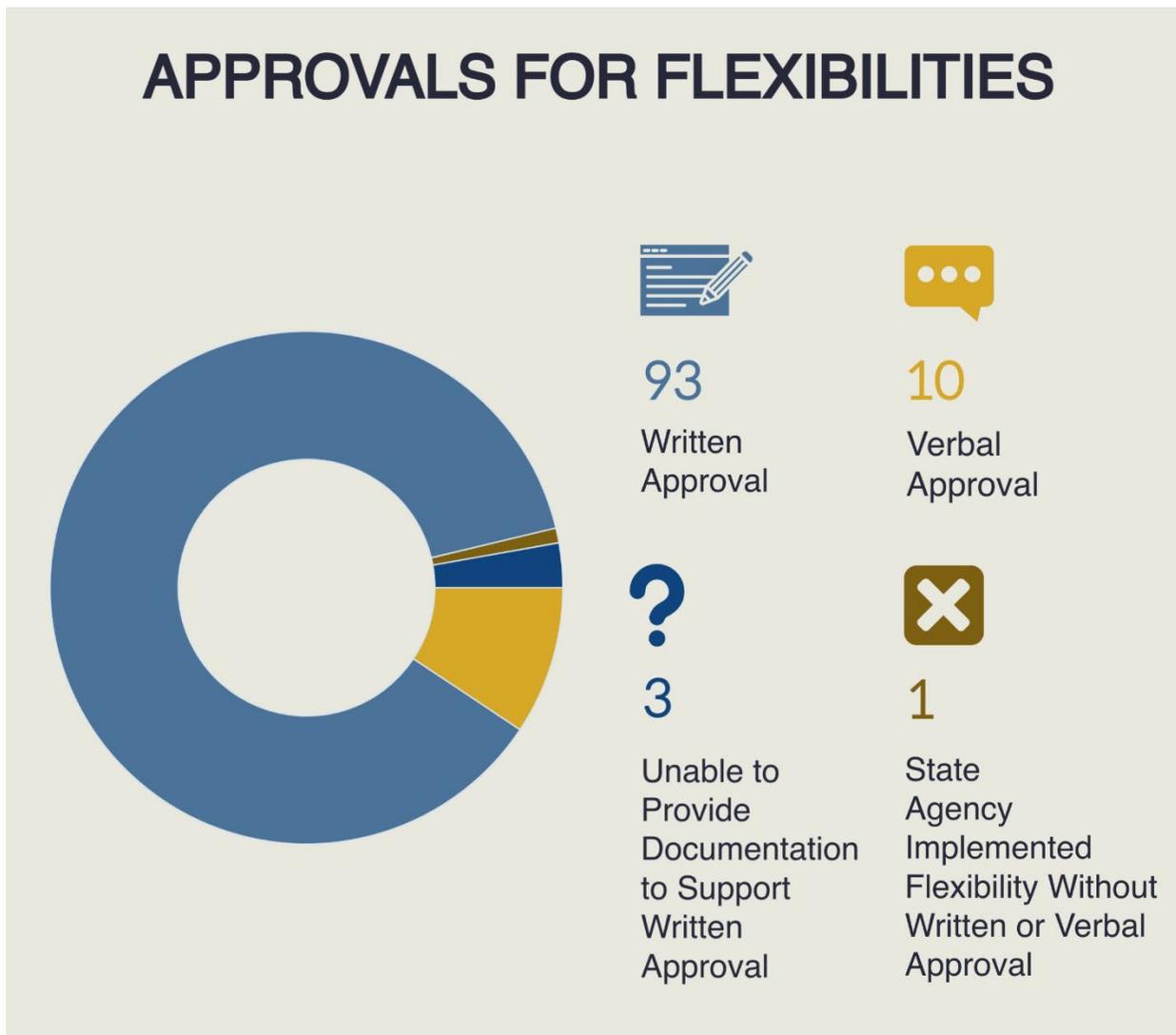


Figure 5: FNS Approvals for Flexibilities

During our inspection, we found one instance where FNS regional office personnel approved a State agency’s written request to waive residency requirements for individuals from a neighboring State to receive USDA-foods. Federal regulation allows States to waive residency requirements in instances where the States enter into an interagency cooperative agreement with the respective State agencies involved. However, based on our review, the State agency’s amendment request did not include a reference to an interagency cooperative agreement. After we brought this to the FNS National Office’s attention, FNS determined that the State agencies did not enter into an interagency cooperative agreement, as required, thereby making the flexibility unallowable. FNS National Office personnel stated that the approval of the request was due to an oversight caused by the unusually high volume of requests for technical assistance

²⁶ During our inspection, FNS provided documentation that FNS personnel had approved 8 of the 14 requests in writing after the States had implemented the flexibilities.

the regional offices received at the beginning of the pandemic. FNS National Office personnel stated that their regional office personnel worked with the State agencies to develop an interagency cooperative agreement; however, the State agencies opted to discontinue this flexibility. In December 2021, the State agency submitted to the FNS regional office a revised amendment request that removed the unallowable flexibility. FNS regional office personnel provided written approval of the revised amendment in January 2022. As a result, we are not making a recommendation for this non-compliance.

While the FNS National Office relied on the Federal regulation²⁷ as its policy to oversee the State plan amendment process, the Federal regulation does not include procedures, such as the format of a request,²⁸ by which the State agency should submit amendments to an FNS regional office for review. Additionally, the Federal regulation does not provide supervisory review requirements to ensure FNS regional office personnel consistently document their assessment of the State agency amendment requests, including written approval of State plan amendments. Without specific control procedures that describe the activities FNS regional office personnel and State agency officials should adhere to, FNS has reduced assurance that flexibilities State agencies implement are allowable and properly documented. Additionally, without documenting approved flexibilities, FNS regional office personnel may not be able to fully monitor and assess State agencies' compliance with Federal regulations and State plans. It is necessary that the State plan reflect all approved flexibilities because it provides assurance that the State plan, the framework for how the State agency will administer the program, is in compliance with regulations.

To better monitor changes to program operations, the FNS National Office needs to establish and implement control activities, such as written procedures, for State agencies to submit and receive approval for any requested changes to program operations or administration, or flexibilities. Additionally, the FNS National Office needs to work with the regional offices to confirm that the State plans with verbal requests or verbal approvals reflect current operations and are approved in writing, as required.²⁹

Recommendation 1

Establish and implement written procedures for State agencies to submit and receive approval for any requested changes in program operations or administration.

Agency Response

In its August 4, 2022, response, FNS stated:

²⁷ Federal regulation (7 C.F.R. § 251.6) requires State agencies to submit an amendment request and receive approval from the FNS regional office for any changes in program operations or administration.

²⁸ According to FNS National Office personnel, an email, letter, or other format is acceptable.

²⁹ As of April 2022, the State agency had not submitted in writing 2 of the 6 verbal requests for flexibilities or provided approval in writing for 6 of the 14 requests. As of April 2022, FNS National Office personnel stated that the regional office personnel had begun to work with those State agencies to update their State plan to reflect current operations.

FNS concurs with this recommendation and will establish and implement written procedures for State agencies to submit and receive approval for any requested changes to program operations or administrative processes outlined in TEFAP State plans. Program regulations at 7 CFR 251.6 outline that State agencies must submit proposed amendments to their TEFAP State plans to the appropriate FNS Regional Office, to the extent that such amendments are necessary to reflect changes in program operations or administration as described in the plan, or at the request of FNS. The written procedures established in response to this recommendation will expand upon these regulatory requirements to standardize the submission and approval processes across Regional Offices.

FNS provided an estimated completion date of March 1, 2023, for this action.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Work with the regional offices to confirm that the State plans with verbal requests or verbal approvals reflect current operations, and FNS approves these plans in writing, as required.

Agency Response

In its August 4, 2022, response, FNS stated:

FNS concurs with this recommendation and has already reviewed and documented the verbal requests and approvals identified in the OIG report to ensure that State agency plans reflect current operations and that all approvals are appropriately approved in writing.

FNS provided a completion date of August 1, 2022, for this action.

OIG Position

We accept management decision for this recommendation.

b. Did FNS deny any flexibilities/exceptions? If so, what were the reasons?

FNS National Office personnel stated they did not deny any State agency requests for flexibilities. However, according to FNS National Office personnel, if a State agency requests unallowable flexibilities, FNS National Office and regional office personnel would provide technical assistance to the State agency to identify allowable flexibilities that the State agency could implement. Through our review of documentation that FNS provided, we concluded that FNS approved all State agencies' requests to implement flexibilities.

c. What guidance has FNS provided to States for promoting TEFAP flexibilities/exceptions to the public?

FNS did not provide guidance to State agencies to promote the flexibilities that State agencies implemented to the public. Federal regulation does not require FNS to oversee efforts by State agencies to promote their TEFAP to the public.³⁰ According to FNS National Office personnel, it is the State agency's responsibility to establish, manage, and promote its TEFAP.

d. How did FNS attain assurance that States had actively promoted TEFAP flexibilities/exceptions to the public?

Federal regulation does not require FNS to oversee State agency promotion efforts. According to FNS National Office personnel, FNS does not monitor or evaluate the effectiveness of State agencies' promotion of changes to program operations, and the agency relies on the State agency to implement and promote TEFAP at the local level.

e. Did FNS see an increase in program participation due to outreach implemented by the States?

Federal regulation does not require FNS to oversee State agencies' promotion efforts or collect participation data from State agencies. While TEFAP ERAs are required to collect program participation information, this information is only obtained to make participant eligibility determinations and is not used to track increases or decreases in program participation.³¹ As required by Federal regulation, FNS allocates program benefits to States based on the TEFAP regulatory allocation formula, which considers States' unemployment and poverty data, rather than on participation levels in each State.

³⁰ Federal regulation requires each State agency to develop a plan of operation and administration for its TEFAP. Federal regulation does not provide a specific requirement for State agencies to promote their TEFAP flexibilities.

³¹ ERAs are required to retain this documentation at the local level to support the eligibility determinations. FNS National Office personnel stated that regional office personnel review documentation to support the eligibility determinations during their monitoring reviews.

Objective 4: What did FNS do to ensure that States and eligible recipient agencies were properly accounting for the program’s administrative funds and that they were being used for allowable purposes?

The FFCR Act and CARES Act authorized up to \$100 million and \$150 million in food funds, respectively, for State agencies to use for allowable administrative costs they incurred while managing the program. Allowable costs could include State and local transportation, storage, processing, and distribution costs.

FNS National Office personnel stated they utilized the same monitoring and oversight controls for the FFCR Act and CARES Act funding as regular TEFAP operations to ensure that State agencies and ERAs properly accounted for the program’s administrative funds and that the funds were being used for allowable purposes. To ensure State agencies and ERAs used FFCR Act and CARES Act funds in accordance with TEFAP guidance, FNS:

- Provided technical assistance and guidance to State agencies on administrative costs that are allowable and unallowable;
- Monitored unobligated FFCR Act and CARES Act administrative funds to ensure State agencies expended funds prior to expiration;³² and
- Required separate quarterly reporting of TEFAP administrative funds to ensure State agencies were properly accounting for the program’s pandemic administrative funds.

Additionally, FNS regional office personnel conducted MEs³³ of State agency TEFAP operations to evaluate whether State agencies and ERAs complied with FNS guidance to administer TEFAP. To assess compliance, we reviewed five of the eight MEs³⁴ FNS regional office personnel completed in FY 2021.

We concluded that, overall, the regional office ME reviewers did not always maintain documentation to support all the determinations of State agency and ERA compliance or non-compliance with Federal and FNS program requirements in their workpapers.³⁵ FNS National Office personnel could not identify a specific reason why ME reviewers did not adhere

³² As part of the oversight of pandemic administrative funds, FNS identified State agencies that would be unable to obligate all of their FFCR Act and CARES Act administrative funds prior to the expiration date on September 30, 2021, and reallocated the returned FFCR Act and CARES Act administrative funds to other States. See Exhibits B and C for reallocated FFCR Act and CARES Act administrative funds.

³³ FNS regional office personnel conduct State agency ME reviews to evaluate the adequacy of the State’s administration of the program. Unless the program area established a target area, and/or a risk-based approach for review selection, all programs and functional areas should be reviewed every 5 years, or more frequently, if required. The ME reviews all of the State agency’s program operations, including an assessment of financial management; compliance with eligibility requirements, inventory controls, distribution procedures, records, and reports for TEFAP foods; and the State agency’s compliance with FNS’ monitoring requirements.

³⁴ During this inspection, we only assessed Part III—Financial Management of the ME Module. This section of the ME Module includes FNS’ assessment of whether the State agencies properly accounted for the program’s administrative funds and whether they were being used for allowable purposes.

³⁵ Workpapers document the techniques applied, tests performed, and analysis conducted during the review and serve as back-up material to support the conclusions (e.g., findings, observations, and noteworthy initiatives) in the report.

to the ME review guidance documentation requirements to support their determinations. As a result, FNS does not have reasonable assurance that regional office reviewers adequately assessed State agency and ERA compliance with Federal and FNS program requirements.

The FNS National ME Review Guidance requires the ME reviewer to maintain all documentation evaluated, gathered, or created for each area reviewed during the course of the ME that supports the reviewer's determination of compliance or non-compliance. Specifically, the documentation must substantiate the ME reviewer's compliance with the National and program-specific ME review guidance, support the completion of the area reviewed, and provide evidence for all conclusions.^{36, 37} Further, for each affirmative conclusion, the ME reviewer must provide a brief description of what was reviewed in order to make a "no finding/observation" determination and ensure this description is included in the workpapers.

The FNS National ME Review Guidance provides a consistent, uniform, and systematic method of monitoring and assessing program operations to improve and strengthen program operations. Under the processes established by this guidance, once the ME reviewer completes their review of the processes and procedures that the State agency followed to implement TEFAP, they compile and report on the determinations of compliance made through their review. FNS regional office supervisors are required to certify that they reviewed the ME report and certify that they reviewed the workpapers supporting the ME reviewer's determinations prior to issuing the ME report to the State agency.

The TEFAP program-specific ME module contains specific questions covering functional areas of program operations and administration performed by the State agency that the ME reviewers should evaluate.

Although FNS regional office supervisors are required to certify that they reviewed the ME reviewer's workpapers, we found that for the Financial Management section of the five ME modules we assessed, the workpapers did not include key information that a supervisor would need to evaluate and ensure the accuracy of the determinations made by the ME reviewer. For example, the TEFAP program-specific ME module requires the ME reviewer to assess the allowability of State agency and ERA costs (e.g., salary costs). Based on our review of the Financial Management section of the five ME modules, we found the workpapers did not contain the necessary information or documentation needed to determine how the ME reviewer determined the salary cost was allowable, such as a review of time sheets or a description of tests performed, to verify the accuracy of cost the State agency or ERA reported. In all five instances, the TEFAP program-specific ME modules were missing documentation to support the basis for

³⁶ In addition to the FNS National ME Review Guidance, FNS established TEFAP program-specific guidance (ME module) to provide direction for its ME reviewers to assess State agencies' and ERAs' compliance with TEFAP requirements.

³⁷ In November 2020, FNS revised the ME module to include pandemic-specific questions to assess whether the State agencies complied with FNS' pandemic guidance, in addition to regular FNS program requirements.

the conclusions in the ME workpapers: in one, the ME had minimal documentation³⁸ and for four they did not have any documentation to support the basis for the conclusions.³⁹

Although FNS National Office personnel could not identify a specific reason why the ME reviewers did not comply with the requirements to document and support the basis for their determination in their workpapers, FNS personnel stated that there could be multiple reasons for this oversight, including:

- Unclear instructions in the TEFAP program-specific ME module for retaining supporting documentation;
- Incomplete workpapers due to employee turnover;
- Inconsistent procedures for obtaining documentation based on the method of review (i.e., virtual versus in-person);⁴⁰ and
- Workpapers not being correctly uploaded to the required system of record.

Without documentation supporting the ME reviewers' determinations, FNS does not have reasonable assurance that the review performed was in accordance with the guidance provided. To ensure ME reviews are performed consistently and in accordance with requirements, FNS needs to perform a comprehensive review of the TEFAP program-specific ME module to ensure it includes specific instructions for retaining documentation and based on this review, revise the ME module as appropriate. Additionally, FNS needs to provide training to the ME reviewers and regional office supervisors on the documentation requirements outlined in the FNS National ME Review Guidance.

Recommendation 3

Perform a comprehensive review of the TEFAP program-specific ME module to ensure it provides clear instructions for retaining documentation in accordance with the National ME guidance documentation requirements and, based on this review, revise the ME module as appropriate.

Agency Response

In its August 4, 2022, response, FNS stated:

³⁸ We found the ME reviewer did not provide a determination on their assessment on the allowability of the administrative costs the State charged to TEFAP. While the ME reviewer retained a report from the State agency on the total costs charged, the reviewer did not retain additional supporting documentation (e.g., timesheets) to support how the reviewer tested the costs charged.

³⁹ The ME reviewer only provided a response to the question. However, the ME reviewer did not provide a description of what was reviewed or retain documentation to support their conclusion, as required by the FNS National ME Review Guidance.

⁴⁰ Although FNS National Office personnel stated that there could be multiple reasons why the ME reviewers did not document and support the basis for their determination in their workpapers, we relied on testimonial evidence and did not validate FNS' statement with supporting documentation.

FNS concurs with this recommendation and will conduct a review of the TEFAP-specific ME module to ensure that it provides clear instructions for retaining documentation and will work to revise the module in instances where instructions could be expanded or clarified. In response to this recommendation, we will take a close look at documentation requirements in our next scheduled review of the ME module and make edits as necessary to clarify (1) what documentation is required to be collected or compiled in order to complete each section of the module, and (2) how ME reviewers should file and retain any documentation that was collected or compiled over the course of a ME.

FNS provided an estimated completion date of June 1, 2023, for this action.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Provide the ME reviewers and regional office supervisors with training to ensure the ME reviews are performed consistently and in accordance with the FNS National ME Review Guidance.

Agency Response

In its August 4, 2022, response, FNS stated:

FNS concurs with this recommendation. FNS' Management Evaluation/Financial Management Review Collaboration workgroup will conduct training for ME reviewers and Regional Office supervisors in all seven FNS Regional Offices in the first quarter of FY 2023 on ME reviews being conducted consistently and in accordance with the FNS National ME/FMR Review Guidance. This training will be conducted in conjunction with the annual update to FNS' National ME/FMR Review Guidance. The training will emphasize Affirmation Conclusion Statements and the documentation needed to support the conclusions made, as well as the importance of documentation in general to support the conclusions for findings/no findings.

FNS provided an estimated completion date of December 31, 2022, for this action.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

Our inspection scope covered the period of March 1, 2020, through October 31, 2020. We conducted our fieldwork on Objectives 2 and 4 from November 2020 through June 2022.

To accomplish Objectives 2 and 4, we:

- Obtained and reviewed applicable laws, policies, procedures, and regulations relating to TEFAP, FFCR Act, and CARES Act;
- Virtually interviewed FNS personnel and reviewed written responses to our questions related to the State plan amendment process, promotion of TEFAP flexibilities, program participation, and oversight of TEFAP administrative funds;
- Reviewed and evaluated TEFAP's process for reallocating administrative funds;
- Reviewed and evaluated the supporting documentation for five of eight FY 2021 MEs;⁴¹ and,
- Reviewed and evaluated 107 State agencies' requests for TEFAP flexibilities and documentation to support approval of those requests.

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation. Those standards require that we obtain sufficient, competent, and relevant evidence to provide a reasonable basis for our findings, conclusions, and recommendations based on our inspection objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our inspection objectives.

⁴¹ Of the eight MEs FNS conducted in FY 2021, we non-statistically selected one ME from each FNS regional office to review for a total of five based on the: (1) number of MEs conducted by each FNS regional office; (2) date of last ME conducted; (3) TEFAP's ME risk assessment score for the State agency; and (4) amount of estimated administrative funds remaining for use in FY 2021.

Abbreviations

CAP.....	Commodity Assistance Program
CARES Act.....	Coronavirus Aid, Relief, and Economic Security Act
C.F.R.	Code of Federal Regulations
COVID-19.....	coronavirus disease 2019
ERA.....	Eligible Recipient Agency
FFCR Act.....	Families First Coronavirus Response Act
FNS	Food and Nutrition Service
FY	fiscal year
ME.....	management evaluation
NAP.....	Nutrition Assistance Program
OIG	Office of Inspector General
TEFAP	The Emergency Food Assistance Program
USDA.....	United States Department of Agriculture

Exhibit A: Interim Reports Issued Under COVID-19—Oversight of the Emergency Food Assistance Program (Inspection 27801-0001-21)

Report Number	Title	Issue Date	Report Details
27801-0001-21(1)	COVID-19— Oversight of the Emergency Food Assistance Program— Interim Report	August 2021	This report provided interim results of Objective 3, which was to determine whether FNS identified risks related to the safe and efficient distribution of USDA-food assistance to States during the pandemic.
27801-0001-21(2)	COVID-19— Oversight of the Emergency Food Assistance Program— Interim Report	October 2021	This report provided the interim results of Objective 1, which was to determine what criteria FNS used to approve States for food and administrative funds provided under the FFCR Act and CARES Act.

Exhibit B: Returned and Reallocated FFCR Act Administrative Funds by State Agency

In our October 2021, report,⁴² we reported on FNS’ allocation of FFCR Act food and administrative funds to the State agencies. After we issued our interim report in October 2021, FNS informed OIG that it recovered administrative funds from 4 of the 55 States⁴³ that were not able to obligate prior to FFCR Act’s expiration on September 30, 2021.

According to FNS, State agencies that did not expect to use all of their remaining administrative funding returned the funds to FNS. FNS reallocated the returned administrative funds to 36 States that were willing and able to use additional administrative funds.^{44, 45} Exhibit B details the FFCR Act administrative funds returned by the State agency and the share of reallocated FFCR Act administrative funds accepted by the State agency. This exhibit represents the change in the FFCR Act administrative funds FNS reported was accepted by each State agency from what was previously reported in Exhibit C of COVID-19—Oversight of the Emergency Food Assistance Program—Interim Report, 27801-0001-21(2).

State	FFCR Act Administrative Funds Returned by State	Share of Reallocated FFCR Act Administrative Funds Accepted by State
Alabama	\$0	\$23,669
Alaska	\$0	\$3,226
Arizona	\$0	\$35,786
Arkansas	\$0	\$15,135
California	\$0	\$192,058
Colorado	\$0	\$21,873
Connecticut	\$0	\$0

⁴² Interim Inspection Report 27801-0001-21(2), *COVID-19-Oversight of the Emergency Food Assistance Program—Interim Report*, Oct. 2021.

⁴³ For the purpose of this report, “States” are defined as all 50 States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands.

⁴⁴ According to the documentation provided by FNS, 15 States chose not to accept additional FFCR Act administrative funds.

⁴⁵ FNS utilized the regulatory TEFAP formula to reallocate the returned FFCR Act administrative funds to State agencies that were willing and able to obligate additional administrative funding prior to the FFCR Act’s expiration on September 30, 2021.

State	FFCR Act Administrative Funds Returned by State	Share of Reallocated FFCR Act Administrative Funds Accepted by State
Delaware	\$0	\$4,481
District of Columbia	\$0	\$0
Florida	\$0	\$97,309
Georgia	\$0	\$0
Guam	\$0	\$1,133
Hawaii	\$0	\$6,032
Idaho	\$0	\$0
Illinois	\$0	\$59,997
Indiana	\$0	\$29,915
Iowa	\$0	\$0
Kansas	\$0	\$0
Kentucky	\$0	\$23,116
Louisiana	\$0	\$28,633
Maine	\$0	\$5,258
Maryland	\$0	\$0
Massachusetts	\$0	\$30,595
Michigan	\$0	\$52,913
Minnesota	\$0	\$0
Mississippi	\$0	\$17,167
Missouri	\$0	\$25,517

State	FFCR Act Administrative Funds Returned by State	Share of Reallocated FFCR Act Administrative Funds Accepted by State
Montana	\$110,982	\$0
Nebraska	\$0	\$0
Nevada	\$1	\$0
New Hampshire	\$0	\$0
New Jersey	\$0	\$39,036
New Mexico	\$0	\$12,224
New York	\$0	\$99,277
North Carolina	\$0	\$48,762
North Dakota	\$0	\$0
Northern Mariana Islands	\$0	\$0
Ohio	\$0	\$58,144
Oklahoma	\$0	\$18,259
Oregon	\$0	\$18,919
Pennsylvania	\$0	\$63,494
Puerto Rico	\$1,219,679	\$0
Rhode Island	\$0	\$0
South Carolina	\$0	\$0
South Dakota	\$88,486	\$0
Tennessee	\$0	\$167,618
Texas	\$0	\$137,115

State	FFCR Act Administrative Funds Returned by State	Share of Reallocated FFCR Act Administrative Funds Accepted by State
Utah	\$0	\$10,369
Vermont	\$0	\$2,551
Virgin Islands	\$0	\$754
Virginia	\$0	\$0
Washington	\$0	\$32,944
West Virginia	\$0	\$9,821
Wisconsin	\$0	\$23,855
Wyoming	\$0	\$2,184
Total	\$1,419,148	\$1,419,139⁴⁶

⁴⁶ There was a \$9 difference between the FFCR Act administrative funds returned by the States and the reallocated FFCR Act administrative funds accepted by the States.

Exhibit C: Returned and Reallocated CARES Act Administrative Funds by State Agency

In our October 2021, report,⁴⁷ we reported on FNS’ allocation of CARES Act food and administrative funds to the State agencies. After we issued our interim report in October 2021, FNS informed OIG that it recovered administrative funds from 5⁴⁸ of the 55 States⁴⁹ that were not able to obligate prior to the CARES Act’s expiration on September 30, 2021.

According to FNS, State agencies that did not expect to use all of their remaining administrative funding returned the funds to FNS. FNS reallocated the returned administrative funds to 34 States who were willing and able to use additional administrative funds.^{50, 51} Exhibit C details the CARES Act administrative funds returned by the State agency and the share of reallocated CARES Act administrative funds accepted by the State agency. This exhibit represents the change in the CARES Act administrative funds FNS reported was accepted by each State agency from what was previously reported in Exhibit D of COVID-19—Oversight of the Emergency Food Assistance Program—Interim Report, 27801-0001-21(2).

State	CARES Act Administrative Funds Returned by State	Share of Reallocated CARES Act Administrative Funds Accepted by State
Alabama	\$0	\$48,775
Alaska	\$0	\$6,653
Arizona	\$0	\$73,771
Arkansas	\$0	\$31,190
California	\$0	\$396,021
Colorado	\$0	\$45,100

⁴⁷ Interim Inspection Report 27801-0001-21(2), *COVID-19-Oversight of the Emergency Food Assistance Program—Interim Report*, Oct. 2021.

⁴⁸ According to FNS, the State agency initially informed FNS it would return \$202 of its unobligated administrative funds. However, after FNS announced that additional administrative funds would be available for reallocation, the State agency accepted back its \$202 in addition to its fair share of the re-allocated administrative funds.

⁴⁹ For the purpose of this report, “States” are defined as all 50 States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands.

⁵⁰ According to the documentation provided by FNS, 17 States chose not to accept additional CARES Act administrative funds.

⁵¹ FNS utilized the regulatory TEFAP formula to reallocate the returned CARES Act administrative funds to State agencies that were willing and able to obligate additional administrative funding prior to the CARES Act’s expiration on September 30, 2021.

State	CARES Act Administrative Funds Returned by State	Share of Reallocated CARES Act Administrative Funds Accepted by State
Connecticut	\$0	\$0
Delaware	\$0	\$9,241
District of Columbia	\$0	\$0
Florida	\$0	\$200,591
Georgia	\$0	\$0
Guam	\$0	\$2,336
Hawaii	\$0	\$0
Idaho	\$0	\$0
Illinois	\$0	\$123,713
Indiana	\$0	\$61,673
Iowa	\$0	\$0
Kansas	\$0	\$0
Kentucky	\$0	\$47,638
Louisiana	\$0	\$59,010
Maine	\$0	\$10,839
Maryland	\$0	\$0
Massachusetts	\$0	\$63,103
Michigan	\$202	\$102,547
Minnesota	\$0	\$0
Mississippi	\$0	\$32,329

State	CARES Act Administrative Funds Returned by State	Share of Reallocated CARES Act Administrative Funds Accepted by State
Missouri	\$0	\$48,072
Montana	\$195,454	\$0
Nebraska	\$0	\$0
Nevada	\$9,937	\$0
New Hampshire	\$0	\$0
New Jersey	\$0	\$80,511
New Mexico	\$0	\$25,192
New York	\$0	\$204,691
North Carolina	\$0	\$100,509
North Dakota	\$0	\$0
Northern Mariana Islands	\$0	\$0
Ohio	\$0	\$119,875
Oklahoma	\$0	\$0
Oregon	\$0	\$39,007
Pennsylvania	\$0	\$130,927
Puerto Rico	\$2,335,822	\$0
Rhode Island	\$0	\$0
South Carolina	\$0	\$0
South Dakota	\$0	\$6,594
Tennessee	\$0	\$0

State	CARES Act Administrative Funds Returned by State	Share of Reallocated CARES Act Administrative Funds Accepted by State
Texas	\$0	\$282,627
Utah	\$0	\$21,375
Vermont	\$0	\$5,260
Virgin Islands	\$44,107	\$0
Virginia	\$0	\$64,482
Washington	\$0	\$67,939
West Virginia	\$0	\$20,243
Wisconsin	\$0	\$49,185
Wyoming	\$0	\$4,502
Total:⁵²	\$2,585,522	\$2,585,521

⁵² There was a \$1 difference between the CARES Act administrative funds returned by the States and the reallocated CARES Act administrative funds accepted by the States.

**FNS'
Response to Audit Report**



Food and
Nutrition
Service

DATE: August 4, 2022

1320
Braddock
Place
Alexandria
, VA
22314

INSPECTION

NUMBER: 27801-0001-21

TO: Yaris Rivera Rojas
Acting Assistant Inspector General for Audit

FROM: /s/ <Dr. Tameka Owens> (for): Cindy Long
Administrator
Food and Nutrition Service

SUBJECT: COVID-19: Oversight of The Emergency Food Assistance
Program

This letter responds to the official draft report for inspection number 27801-0001-21, COVID-19 Oversight of the Emergency Food Assistance Program (TEFAP). Specifically, the Food and Nutrition Service (FNS) is responding to the four recommendations in the report.

OIG Recommendation 1:

Establish and implement written procedures for State agencies to submit and receive approval for any requested changes in program operations or administration.

FNS Response:

FNS concurs with this recommendation and will establish and implement written procedures for State agencies to submit and receive approval for any requested changes to program operations or administrative processes outlined in TEFAP State plans. Program regulations at 7 CFR 251.6 outline that State agencies must submit proposed amendments to their TEFAP State plans to the appropriate FNS Regional Office, to the extent that such amendments are necessary to reflect changes in program operations or administration as described in the plan, or at the request of FNS. The written procedures established in response to this recommendation will expand upon these regulatory requirements to standardize the submission and approval processes across Regional Offices.

Estimated Completion Date:

March 1, 2023

OIG Recommendation 2:

Work with the Regional Offices to confirm that the State plans with verbal requests or verbal approvals reflect current operations, and FNS approves these plans in writing, as required.

FNS Response:

FNS concurs with this recommendation and has already reviewed and documented the verbal requests and approvals identified in the OIG report to ensure that State agency plans reflect current operations and that all approvals are appropriately approved in writing.

Estimated Completion Date:

Complete as of August 1, 2022

OIG Recommendation 3:

Perform a comprehensive review of the TEFAP program-specific ME module to ensure it provides clear instructions for retaining documentation in accordance with the National ME guidance documentation requirements and based on this review, revise the ME module as appropriate.

FNS Response:

FNS concurs with this recommendation and will conduct a review of the TEFAP-specific ME module to ensure that it provides clear instructions for retaining documentation and will work to revise the module in instances where instructions could be expanded or clarified. In response to this recommendation, we will take a close look at documentation requirements in our next scheduled review of the ME module and make edits as necessary to clarify (1) what documentation is required to be collected or compiled in order to complete each section of the module, and (2) how ME reviewers should file and retain any documentation that was collected or compiled over the course of a ME.

Estimated Completion Date:

June 1, 2023

OIG Recommendation 4:

Provide the ME reviewers and Regional Office supervisors with training to ensure the ME reviews are performed consistently and in accordance with the FNS National ME Review Guidance.

FNS Response:

FNS concurs with this recommendation. FNS' Management Evaluation/Financial Management Review Collaboration workgroup will conduct training for ME reviewers and Regional Office supervisors in all seven FNS Regional Offices in the first quarter of FY 2023 on ME reviews being conducted consistently and in accordance with the FNS National ME/FMR Review

Guidance. This training will be conducted in conjunction with the annual update to FNS' National ME/FMR Review Guidance. The training will emphasize Affirmation Conclusion Statements and the documentation needed to support the conclusions made, as well as the importance of documentation in general to support the conclusions for findings/no findings.

Estimated Completion Date:

December 31, 2022

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