



United States Department of Agriculture

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



Inspection Report

27801-0001-21(1)

August 2021

OFFICE OF INSPECTOR GENERAL

COVID-19—Oversight of the Emergency Food Assistance Program

Inspection Report 27801-0001-21(1)

The objective of our ongoing inspection is to evaluate FNS' oversight of TEFAP—this report provides interim results on whether FNS identified risks related to the safe and efficient distribution of USDA-food assistance to States during the COVID-19 pandemic.

OBJECTIVE

One of the four objectives of our ongoing inspection was to determine what risks FNS identified related to the safe and efficient distribution of USDA-food assistance provided to States during the COVID-19 pandemic. Specifically: (a) did FNS accept any risk related to the safe distribution of food assistance without implementing an offsetting internal control?; and (b) what controls did FNS establish to manage risks it did not accept?

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 recipient agencies serving low-income households and individuals. TEFAP also provides administrative funds to cover States' and recipient agencies' costs associated with the processing, storage, and distribution of USDA-foods and foods provided through private donations.

We concluded that the Food and Nutrition Service (FNS) did not formally evaluate what impact the coronavirus disease 2019 (COVID-19) pandemic could have on the safe and efficient distribution of food assistance to States. This occurred because FNS had not established a formal enterprise risk management process to continuously identify and assess risks related to TEFAP program operations, including changing conditions that could impact the integrity of the program. Without a formal risk management process for TEFAP, there is no assurance that FNS periodically reviews and documents its response to the impact of changing conditions on the safe and effective distribution of food assistance to States. In fiscal year 2020, the Families First Coronavirus Response (FFCR) and Coronavirus Aid, Relief, and Economic Security (CARES) Acts increased TEFAP funding by \$850 million, with funding totaling more than \$1.2 billion, thus increasing the potential risk that food assistance may not go to those in need.

FNS agreed with our finding and recommendations, and we accepted management decision on both recommendations.

REVIEWED

We evaluated if FNS identified risks related to the safe and efficient distribution of USDA food assistance provided to the States between March 1, 2020, and October 31, 2020.

RECOMMENDS

We recommend that FNS develop and implement a formal process to periodically identify, assess, and document risks that could impact the integrity of TEFAP. FNS should also document its response to the risks identified during its assessment and document and implement mitigation strategies, as applicable.



OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



DATE: August 24, 2021

INSPECTION

NUMBER: 27801-0001-21(1)

TO: Cindy Long
Acting Administrator
Food and Nutrition Service

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

FROM: Gil H. Harden
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 excerpts from 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 both inspection 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 audit fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) 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 recipient agencies⁵ serving low-income households and individuals. TEFAP also provides administrative funds to cover States' and recipient agencies' costs associated with the processing, storage, and distribution of 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 and administrative funds⁶ according to a formula based on each State's population of low-income and unemployed persons. State agencies⁷ administer TEFAP at the State level. State agencies are responsible for distributing USDA-foods and funds to recipient agencies and 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 under the Temporary Emergency Food Assistance Program 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 Northern Mariana Islands.

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

⁶ Funds are provided to the State and recipient agencies for the costs associated with processing, storage, and distribution of USDA-foods or food provided through private donations.

⁷ 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.

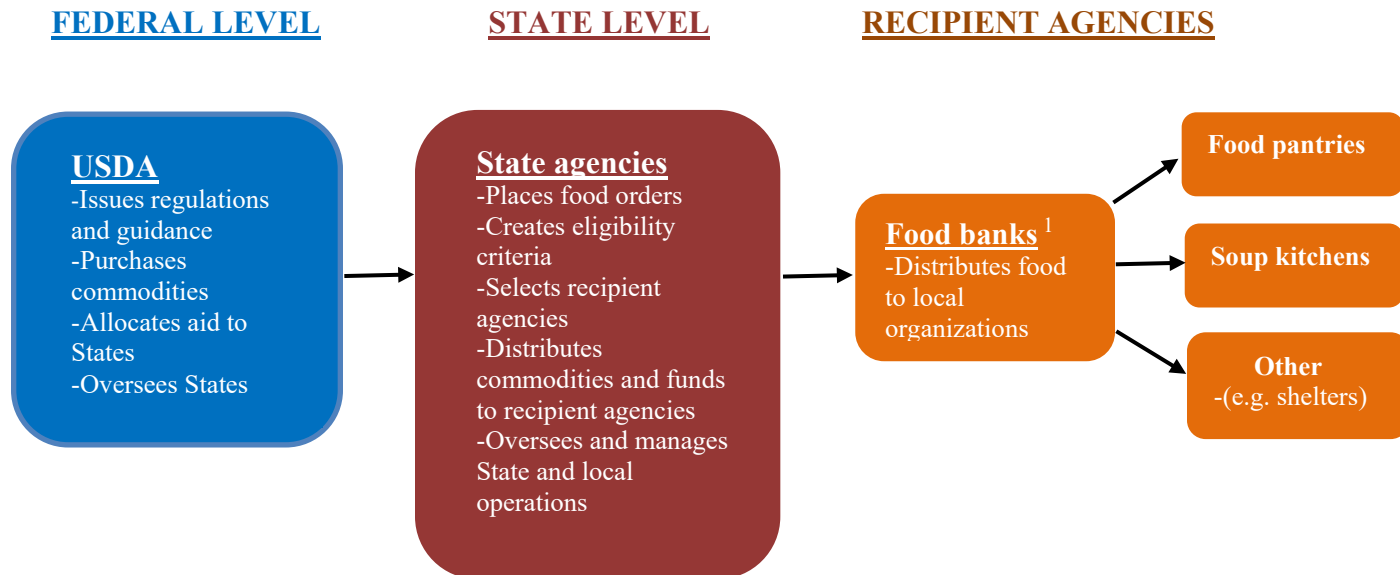


Figure 1. Flow of Food and Funds through TEFAP.

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

Section 27 of the Food and Nutrition Act authorizes mandatory funding for TEFAP.⁸ In fiscal year (FY) 2020, Congress appropriated more than \$397 million to TEFAP: \$317.5 million for USDA-foods and \$79.63 million for food distribution costs.⁹

In January 2020, the Secretary of Health and Human Services declared the coronavirus disease 2019 (COVID-19) pandemic¹⁰ 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,¹¹ 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,¹² enacted on March 27, 2020, provided an additional \$450 million in supplemental funding to CAP for TEFAP. The CARES Act additionally required that funds be used to “prevent, prepare for, and respond to coronavirus.” The FFCR and CARES Acts did not

⁸ The Food and Nutrition Act of 2008, Pub. L. No. 88–525 (Aug. 1964), amended by Pub. L. No. 116-94 (Dec. 2019).

⁹ The Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94 (Dec. 2019).

¹⁰ 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.

¹¹ Families First Coronavirus Response Act, Pub. L. No. 116-127 (Mar. 2020).

¹² Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (Mar. 2020).

change TEFAP's regulatory requirements; however, these Acts increased FY 2020 funding by \$850 million.

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

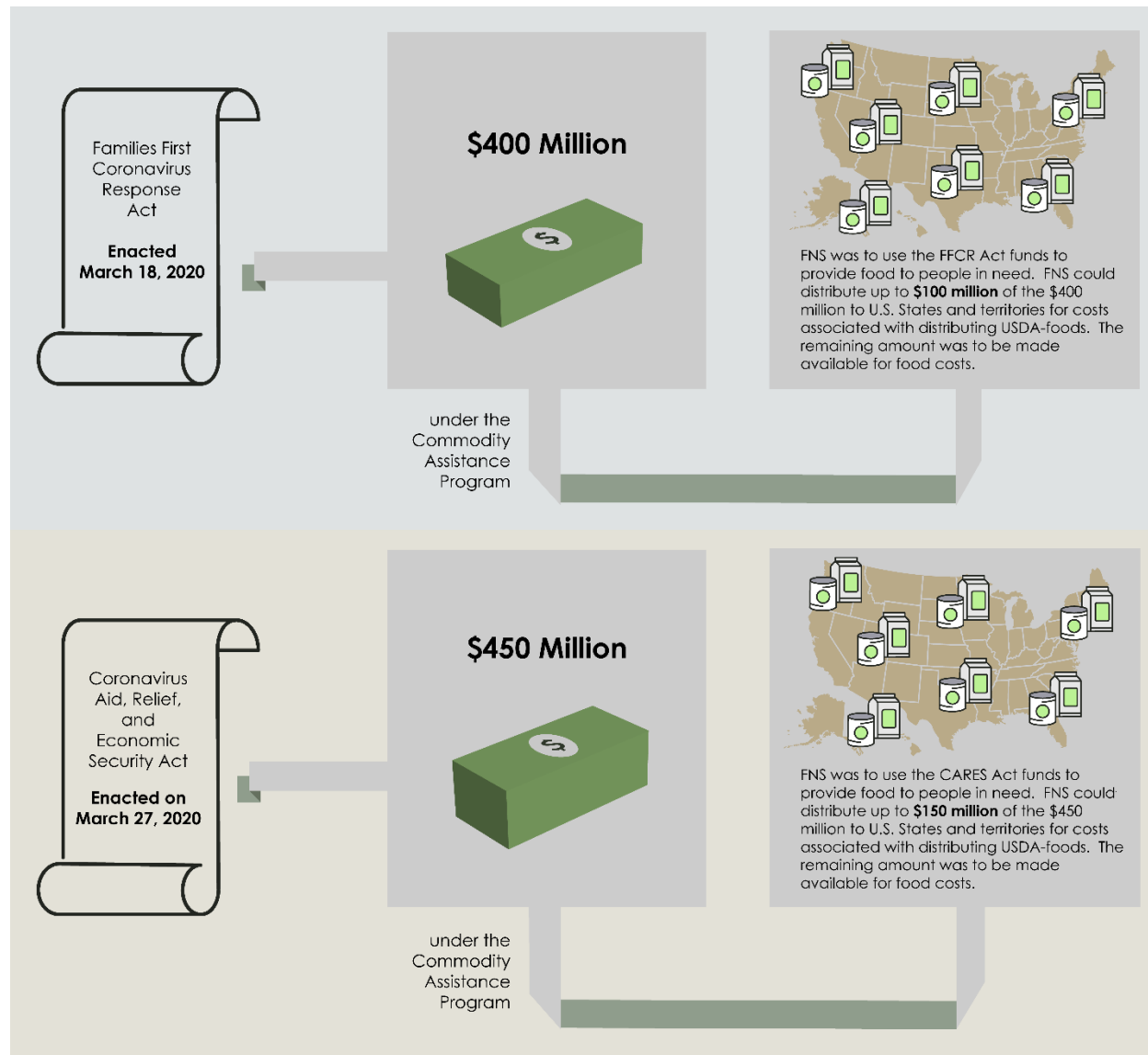


Figure 2. FFCR and CARES Act Funding

Objectives

One of our inspection objectives¹³ was to determine what risks FNS identified related to the safe and efficient distribution of USDA-food assistance provided to States during the pandemic. Specifically:

- 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?

¹³ During the course of our inspection, we plan to issue additional interim reports as we complete the other three objectives. In this report, we are addressing objective 3.

Section 1: 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?

FNS did not formally evaluate the impact the pandemic could have on the safe and efficient distribution of food assistance to States. This occurred because FNS had not established a formal enterprise risk management (ERM) process to continuously identify and assess risks related to TEFAP program operations, including changing conditions that could impact the integrity of the program. Without a formal risk management process for TEFAP, there is no assurance that FNS periodically reviews and documents its response to the impact of changing conditions on the safe and effective distribution of food assistance to States. In FY 2020, the FFCR¹⁴ and CARES¹⁵ Acts increased TEFAP funding by \$850 million, with funding totaling more than \$1.2 billion, thus increasing the potential risk that food assistance may not go to those in need.

The Office of Management and Budget (OMB) Circular No. A-123 states that identifying risk is a continuous and ongoing process. Agencies must regularly review and monitor risk to identify whether risks still exist, whether new risks have arisen, and whether the likelihood and impact of risks have changed; report significant changes that adjust risk priorities; and deliver assurance on the effectiveness of controls.¹⁶ Furthermore, changing conditions often create new risks or changes to existing risks that prompt management to perform a risk assessment to identify, analyze, and respond to risks caused by these changing conditions.¹⁷

OMB defines ERM as an effective, agency-wide approach to address the full spectrum of significant internal and external risks by understanding the combined impact of risks as an interrelated portfolio, rather than addressing risks only within silos. ERM is a part of overall organizational governance and accountability functions and encompasses all areas where an organization is exposed to risk.¹⁸

The FFCR and CARES Acts increased TEFAP funding by a total of \$850 million to purchase and distribute food to those in need. FNS modified or implemented oversight controls in response to the requirements of the CARES Act and the pandemic that:

¹⁴ Families First Coronavirus Response Act, Pub. L. No. 116-127 (Mar. 2020).

¹⁵ Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (Mar. 2020).

¹⁶ OMB, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Circular A-123 (July 2016).

¹⁷ Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, GAO-14-704G (Sep. 2014).

¹⁸ OMB, *Management's Responsibility for Enterprise Risk Management and Internal Control*, Circular A-123 (July 2016).

- required separate reporting of pandemic funds in its financial reports;
- prioritized the use of CARES Act funds over other funding;¹⁹
- required that States provide a written justification for how they would use additional funds to ensure they would meet the intent of the CARES Act;
- revised its management evaluations (ME)²⁰ to include pandemic-specific questions to assess whether State agencies complied with FNS’ pandemic guidance beginning in FY 2021; and
- modified the timing of MEs and State agency monitoring reviews.

However, FNS did not perform a formal program-wide risk assessment²¹ to evaluate what impact the pandemic could have on TEFAP’s operations and processes.²² We concluded the pandemic created challenges for TEFAP, including difficulties in fulfilling TEFAP food orders and delays in conducting monitoring activities. Had FNS formally evaluated the impact of the pandemic on program operations, the agency could have further identified ways to mitigate risks to program integrity.

Delivery of USDA-Foods

In November 2020²³ and March 2021,²⁴ GAO reported that FNS faced several challenges implementing TEFAP during the pandemic. For example, GAO reported that FNS canceled multiple TEFAP orders during the pandemic—such as orders for canned meats, soups, and vegetables—that left food banks without the USDA-foods they were expecting to distribute to participants.²⁵ GAO’s review of FNS data disclosed that food order cancellations were an ongoing challenge. In terms of both estimated value and total truckload, GAO reported the magnitude of canceled TEFAP orders was similar from March to September 2020, compared to the same months in 2019, and canceled orders were greater from October to December 2020, when compared to March to September 2020. We asked FNS officials if they identified canceled orders as a risk to the program and, if so, did they implement any changes to address this issue. FNS officials stated they had not assessed risks related to canceled orders. However, in the fall of 2020, they began working more closely with their procurement department to identify

¹⁹ The CARES Act required funds to be used to “prevent, prepare for, and respond to coronavirus.” As a result, FNS prioritized using these funds over FFCR Act and regular TEFAP funds.

²⁰ FNS regional offices conduct MEs, which include a review of all of the State agency’s program operations. This includes an assessment of financial management, as well as compliance with eligibility requirements, inventory controls, distribution procedures, records and reports for TEFAP foods, and the State agencies’ compliance with its own monitoring requirements. FNS regional offices review the five TEFAP State agencies identified as the most at risk for fraud, waste, or abuse on an annual basis.

²¹ A program-wide risk assessment encompasses all areas where an organization is exposed to risk (financial, operational, reporting, compliance, governance, strategic, reputation, etc.).

²² FNS did perform an annual risk assessment of TEFAP improper payments, as required by the Payment Integrity Information Act.

²³ GAO, *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191 (Nov. 2020).

²⁴ GAO, *COVID 19: Sustained Federal Action is Crucial as Pandemic Enters Its Second Year*, GAO-21-387 (Mar. 2021).

²⁵ According to GAO, FNS officials and representatives from organizations who distribute food stated several factors contributed to canceled TEFAP orders during the pandemic, including vendors not bidding on a given order, supply chain issues making food unavailable, and increasing transportation and raw materials costs.

additional vendors, make modifications to the list of food offerings, and increase their involvement within the food industry to reduce the risk of canceled orders.

Oversight

Travel restrictions due to the pandemic prevented FNS regional offices from completing MEs for two State agencies FNS identified as high risk for waste, fraud, and abuse of program resources.²⁶ Although FNS rescheduled these two MEs from FY 2020 to FY 2021, the agency did not formally identify or assess potential risks caused by postponing the MEs. For example, FNS did not formally evaluate and document whether it should implement alternate mitigating controls—such as a desk review of State agencies’ operations—to replace or supplement the monitoring reviews postponed due to the pandemic.

Travel restrictions also impacted State agencies’ ability to complete on-site monitoring of their TEFAP operations and processes. State agencies are required to annually review recipient agencies that participate in TEFAP.²⁷ In light of the pandemic, FNS provided the State agencies the option to delay their oversight activities and encouraged virtual reviews to be conducted to the extent practicable.²⁸ However, FNS modified these existing controls without performing a formal risk assessment to determine how these delays could impact the State’s ability to monitor program operations effectively.

ERM has six essential elements that fit together to form a continual process for managing enterprise risks. The absence of any one of the elements would likely result in an agency incompletely identifying and managing risk. For example, if an agency did not monitor risks, it would have no way to ensure it successfully respond to risks. If FNS had performed formal risk assessments as part of a continuous risk management process (depicted in Figure 3), FNS could have more timely identified the challenges OIG and GAO reported and may have been able to develop and implement strategies to mitigate the risks these challenges presented to the safe and efficient distribution of USDA-foods to States.

²⁶ FNS conducts an annual risk-based assessment to determine State agencies that pose the highest risk for waste, fraud, and abuse of TEFAP resources. Based on the results of the assessment, FNS selects the top five states its assessment identified as presenting the highest risk for fraud, waste, and abuse and performs a ME of those states. In FY 2020, FNS completed three of the five MEs before the pandemic and rescheduled the remaining two MEs to be completed in FY 2021.

²⁷ These on-site reviews evaluate how organizations conduct eligibility determinations, food ordering procedures, storage and warehouse practices, inventory controls, and adherence to reporting and recordkeeping requirements.

²⁸ According to 7 C.F.R. § 250, storage facility reviews and physical inventory counts must be conducted on-site.

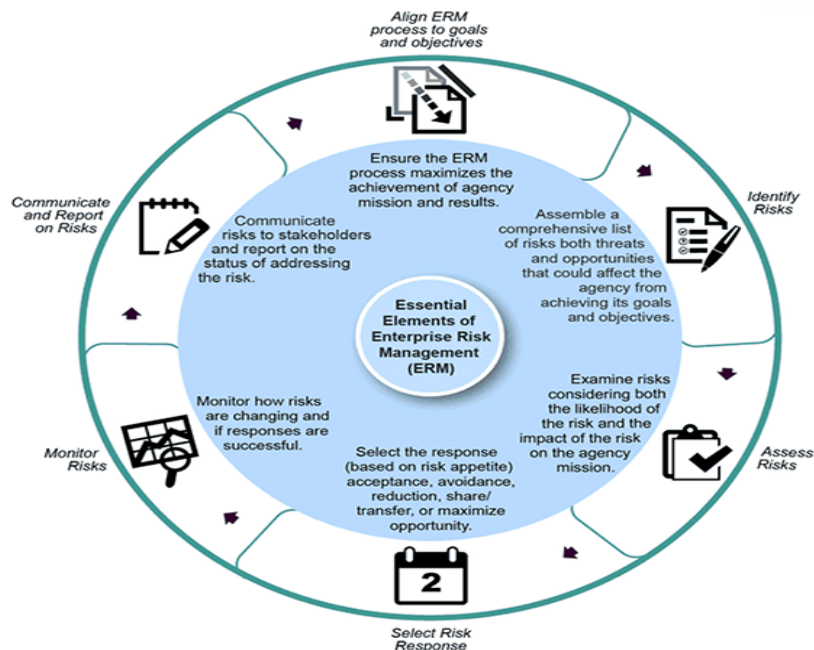


Figure 3: Essential Elements of Federal Government Enterprise Risk Management.
Source: GAO-17-63.²⁹

While we acknowledge that FNS modified oversight controls in response to the pandemic, the agency did not conduct a comprehensive, formal risk assessment of all aspects of TEFAP, including an assessment of FNS's TEFAP operations and processes and an assessment of the impact that changing conditions caused by the pandemic and an increase in Federal funding could have on TEFAP operations. Although we noted FNS modified program operations in response to the pandemic, FNS officials shared they did not formally identify and document the risks of these modifications to the effective oversight of TEFAP. As a result, FNS cannot ensure that the oversight controls it modified did not create additional risks that FNS should have mitigated and that all risks to TEFAP operations are identified and assessed. FNS needs to conduct and document a formal risk assessment of TEFAP, including evaluating the impact of the pandemic on its operations. In addition, to ensure FNS appropriately uses current and future TEFAP funds, FNS needs to document any determinations regarding whether it is willing to accept risks to program integrity or identify and implement additional internal controls to mitigate risks.

Recommendation 1

Develop and implement a formal process to periodically identify, assess, and document risks, beyond improper payments, that could impact the integrity of TEFAP. This should include a comprehensive assessment of all aspects of TEFAP, including those that would arise as a result of changes in operations due to a significant event.

²⁹ GAO, *Enterprise Risk Management, Selected Agencies' Experiences Illustrate Good Practices in Managing Risk*, GAO-17-63 (Dec. 2016).

Agency Response

In its August 13, 2021, response, FNS stated:

FNS concurs with this recommendation and will work to develop and implement a formal process to periodically identify, assess, and document risks that could affect the integrity of TEFAP, including those that would arise as a result of changes in operation due to a significant event such as the COVID-19 pandemic. Though risk assessment is built into routine program operations and did inform FNS' response to the pandemic, we recognize that we do not have a formal risk evaluation process in place in which known risks, responses to risks, and mitigation strategies are documented and formally evaluated. Moving forward, we will implement a formal ERM process using the Office of Management and Budget's *Management Responsibility for Enterprise Risk Management and Internal Control*, Circular A-123 as a guide. We recognize that such an assessment is a best practice in program administration and will help to ensure the effective and efficient administration of the program.

FNS provided an estimated completion date of May 1, 2022, for this action.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Document FNS' response to the risks identified during its assessment. Document and implement mitigation strategies, as applicable.

Agency Response

In its August 13, 2021, response, FNS stated:

FNS concurs with this recommendation. The ERM process that will be developed and implemented will include a process for documenting FNS' response to any risks identified during the risk assessment and any corresponding mitigation strategies that will need to be put into place. In many cases, the process to document risks and mitigation strategies will simply be an articulation of known risks and strategies that FNS already has in place; however, we recognize that a formal process may yield different solutions or strategies than what FNS has already implemented for TEFAP.

FNS provided an estimated completion date of August 1, 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 Objective 3 from November 2020 through June 2021.

To accomplish Objective 3, we:

- Obtained and reviewed applicable laws, policies, procedures, and regulations relating to TEFAP, FFCR Act and CARES Act;
- Reviewed GAO Reports to Congressional Committees: “COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response” (November 2020) and “COVID-19: Sustained Federal Action is Crucial as Pandemic Enters Its Second Year” (March 2021);
- Interviewed FNS officials and reviewed written responses to our questions;
- Reviewed and evaluated FNS’ FY 2020 TEFAP improper payment risk assessment;
- Identified and reviewed controls implemented by FNS in response to the FFCR and CARES Acts; and
- Reviewed FNS’ process for conducting MEs, including FNS’ risk-based assessment for selecting States for ME reviews and the ME module.

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency’s Quality Standards for Inspection and Evaluation.³⁰ 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 finding, conclusions, and recommendations based on our inspection objective.

³⁰ Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation* (Dec. 2020).

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
ERM.....	Enterprise Risk Management
FFCR Act.....	Family First Coronavirus Response Act
FNS	Food and Nutrition Service
FY	fiscal year
GAO.....	Government Accountability Office
ME.....	management evaluation
OMB	Office of Management and Budget
TEFAP	The Emergency Food Assistance Program
USDA.....	United States Department of Agriculture

Agency's Response

FNS' Response to Audit Report



Food and
Nutrition
Service

DATE: August 13, 2021

1320
Braddock
Place
Alexandria
, VA
22314

INSPECTION

NUMBER: 27801-0001-21(1)

TO: Gil H. Harden
Assistant Inspector General for Audit

FROM: Cindy Long /s/
Acting Administrator
Food and Nutrition Service

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

This letter responds to the interim report official draft for inspection number 27801-0001-21(1), COVID-19: Oversight of The Emergency Food Assistance Program (TEFAP). Specifically, the Food and Nutrition Service (FNS) is responding to the two recommendations in the report.

FNS supports the Office of Inspector General's (OIG) objectives to assess the controls FNS has in place to monitor and evaluate risk in TEFAP. Such exercises only serve to bolster and improve the effective and efficient administration of the program. As the COVID-19 pandemic has demonstrated, TEFAP's vast network of food banks, food pantries, soup kitchens, and other local agencies are a lifeline for low-income Americans in need of emergency food assistance. We appreciate OIG's due diligence in helping to ensure that TEFAP remains a stable and reliable source of food assistance for those in need under any circumstances that may arise.

OIG Recommendation 1:

Develop and implement a formal process to periodically identify, assess, and document risks, beyond improper payments, that could impact the integrity of TEFAP. This should include a comprehensive assessment of all aspects of TEFAP, including those that would arise as a result of changes in operations due to a significant event.

FNS Response:

FNS concurs with this recommendation and will work to develop and implement a formal process to periodically identify, assess, and document risks that could affect the integrity of TEFAP, including those that would arise as a result of changes in operation due to a significant event such as the COVID-19 pandemic. Though risk assessment is built into routine program operations and did inform FNS' response to the pandemic, we recognize that we do not have a formal risk evaluation process in place in which known risks, responses to risks, and mitigation strategies are documented and formally evaluated. Moving forward, we will implement a formal enterprise risk management (ERM) process using the Office of Management and Budget's *Management Responsibility for Enterprise Risk Management and Internal Control*, Circular A-

123 as a guide. We recognize that such an assessment is a best practice in program administration and will help to ensure the effective and efficient administration of the program.

Estimated Completion Date:

May 1, 2022

OIG Recommendation 2:

Document FNS' response to the risks identified during its assessment. Document and implement mitigation strategies, as applicable.

FNS Response:

FNS concurs with this recommendation. The ERM process that will be developed and implemented will include a process for documenting FNS' response to any risks identified during the risk assessment and any corresponding mitigation strategies that will need to be put into place. In many cases, the process to document risks and mitigation strategies will simply be an articulation of known risks and strategies that FNS already has in place; however, we recognize that a formal process may yield different solutions or strategies than what FNS has already implemented for TEFAP.

Estimated Completion Date:

August 1, 2022



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