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Gregory Walton,  
Program Analyst, Food Distribution Policy Branch, Supplemental Nutrition and Safety Programs  
U.S. Department of Agriculture's Food and Nutrition Service  
1320 Braddock Place, 3rd Floor  
Alexandria, Virginia 22314

**Re: Comment on USDA Food and Nutrition Service Food Distribution Programs: Improving Access and Parity**

Dear Mr. Walton,

On behalf of the Alaska Food Policy Council, I am submitting the following comments on the U.S. Department of Agriculture's Food and Nutrition Service (FNS) proposed updates of regulations governing food distribution programs to improve access and parity. Included in the rule are changes to four programs: The Food Distribution on Indian Reservations Program (FDPIR), the Commodity Supplemental Food Program (CFSP), the Emergency Food Assistance Program (TEFAP), and the USDA Foods in Disaster Program.

The Alaska Food Policy Council (AFPC) is a nonprofit organization committed to making improvements to Alaska's food system. We are one of the only organizations working statewide, across sectors, to improve Alaska's food system. Over 175 agencies and individuals representing Federal and State agencies, Tribal entities, schools, University programs, farmers, fisheries, and food systems businesses are members of the AFPC. Our collective experiences and organizational mission, to create a healthier, more secure, and more self-reliant Alaska by improving our food system guide our comments on the proposed FNS rule changes.

The past two years have revealed more clearly than ever a tremendous amount of insecurity within our Alaskan food system. Shipping delays, food waste, increased hunger, increased demand on our food banks, and not enough local production to feed our people are just a handful of issues that were exponentially felt during this time. The Alaska Food Policy Council serves all Alaskans, and through our partners, we have become keenly aware of the more at-risk populations that could use additional support. The most recent census indicated that 22% of Alaska's population identifies as American Indian and Alaska Native. Additionally, Alaska Natives are twice as likely to be food insecure when compared to white populations. Alaska is also host to the nation's most northern military bases and within these communities, almost 3% rely on

SNAP to feed their families. According to Feeding America, almost 87,000 people, or 1 in 8, are facing hunger, and just over 28,000 are children, 1 in 6, and 1 and 10 are senior citizens. Additionally, Alaska Natives are twice as likely to be food insecure when compared to white populations. In FY 2022, nearly 98,000 Alaskans received SNAP benefits, 223 Alaskans received FDPIR benefits, 2,446 Alaskans received CSFP benefits, and TEFAP total food costs were almost \$2.4 million.

**We strongly encourage and support efforts to increase parity and access to USDA FNS nutrition programs, and to reduce administrative burdens within and between them.**

We are aware that many of the proposed changes are welcome and reflect input from Tribal leaders and Indian Tribal Organizations (ITOs) through official consultations with USDA. We strongly support proposed changes to all of the programs to provide clarification and flexibility to the State agencies and ITOs. Alaska is not alone in facing unprecedented challenges in recruiting and retaining employees across sectors. Our relatively small population is spread over a tremendous geographic area and our food system is unique in the nation for its complexity and vulnerability.

There are also areas within the proposal that may limit the efficient, effective, and equitable administration of these FNS programs for Alaskans. With input from our Tribal partners, statewide and national partners, our Working Groups, and our Governing Board, we wish to offer further clarification and suggestions to improve the proposed rule changes to meet the stated goals of improving access and parity in these programs and specifically within Alaska:

**CSFP - CFR 247**

- **Proposed requirements for state agencies:** *adding distribution locations and state plan online, and provide information and referrals to SFMNP*
  - While AFPC supports the intent behind these proposed changes, we do note that our State agencies are experiencing a labor shortage that is not unique to Alaska, and we caution USDA in adding administrative requirements without strongly considering impacts in the face of limited capacity. In line with Executive Order 12866, we encourage USDA to fully evaluate whether the execution of this and other additional administrative requirements within this proposed rule provides a net benefit that does not outweigh the costs of implementation, including the potential negative impacts on existing program tasks. Our conversations with State partners indicate this may be the case in Alaska and as such, we recommend that the Department not increase administrative requirements for State agencies but encourage the posting and sharing of information to provide eligible participants with valuable information on how they can access nutritious, locally grown food.

- **Eligibility updates for verification and income eligibility**
  - Alaska is not unique in experiencing labor shortages and challenges within program administration. AFPC supports rulemaking that provides administrative flexibility and more local control in the eligibility verification process. AFPC supports increasing the maximum income eligibility threshold to 185% of the federal poverty level for increased access and better alignment between programs. AFPC strongly supports the broad use of categorical eligibility to streamline eligibility for increased access and reduction of administrative burden for our Agencies and ITOs, as well as for Alaskans seeking assistance. We believe the proposed changes for using other Federal programs to demonstrate eligibility is a positive step, and this concept further encourages alignment between programs to ensure access across vulnerable populations.
- **Update automatically with the most up-to-date USDA nondiscrimination statement**
  - AFPC supports this proposed change throughout the FNS programs, and does not have further comments.

#### **USDA Foods Disaster Response - CFR 250**

- **Remove language prohibiting D-SNAP benefits during a disaster simultaneous with USDA Foods (donated), and removes the requirement that State distributing agencies confirm whether a household has received D-SNAP benefits**
  - We strongly support this proposed change. When we look at food systems across Alaska, we must recognize the substantial supply chain challenges and complexities. It is essential that we don't place real and administrative burdens on top of providing disaster food relief and that we ensure eligible Alaskans have the flexibility to access all available sources of USDA Foods during disasters.

#### **TEFAP - The Emergency Food Assistance Program - CFR 251**

- **Proposed new requirements for State agencies:** *Require TEFAP State agencies to post information about eligible recipient agencies and TEFAP statewide eligibility criteria to the web & update annually, and to provide information to FNS annually*
  - While AFPC supports the intent behind these proposed changes, we do note that our State agencies are experiencing a labor shortage that is not unique to Alaska, and we caution USDA in adding administrative requirements without strongly considering impacts on program delivery in the face of limited capacity.
- **Encourage State agencies and eligible recipient agencies to implement or expand distributions of USDA Foods in Tribal areas, in addition to the rural areas already listed.**

- AFPC strongly supports this proposal to push for improved equity within our food system. Alaska Native communities have significantly higher rates of food insecurity, and we support every effort to reduce this inequity.
- **Establish a national, allowable range for income eligibility. Add a maximum income eligibility threshold that is at or between 185-250% of the federal poverty level.**
  - In line with our commitment to increased food access to all Alaskans, AFPC supports a national minimum income eligibility threshold of 185% federal poverty level, and we encourage that change across all FNS programs. We suggest removing the maximum limit altogether. Currently, Alaska operates at a 300% threshold - with the incredibly high cost of living, 250% is not enough for our state. We encourage the USDA to provide flexibility to State partners in establishing income eligibility thresholds that meet the needs of their residents to ensure equitable access to food programs. If a maximum limit is deemed necessary, AFPC suggests increasing the maximum threshold to at least 400% of the federal poverty level with the opportunity for states to apply for higher thresholds.
- **Broaden residency verification to not require an address from an applicant and allow States & eligible recipient agencies flexibility in the administration of the program and help to streamline methods for determining TEFAP applicant residency.**
  - AFPC supports this proposed change, believing that it will reduce the administrative burden. We believe that access to food is a basic human right, and this change will improve FNS program access to unhoused Alaskans. We also support the updating of reporting criteria to reflect this change and remove the requirement for collection of household addresses.
- **Adding requirements for protecting information obtained from TEFAP applicants by establishing confidentiality requirements to align with those of other food assistance programs.**
  - We support improved confidentiality requirements as another way to improve program accessibility and confidence for Alaskans. We encourage USDA to ensure confidentiality regulations are aligned with ongoing best practices utilized in current electronic intake platforms.
- **Require State agencies to report the total number of persons participating in TEFAP USDA Food distribution for home consumption on a quarterly basis.**
  - While AFPC supports the intent behind these proposed changes, we do note that our State agencies are experiencing a labor shortage that is not unique to Alaska, and we caution USDA in adding administrative requirements without strongly considering impacts on program delivery in the face of limited capacity.

## **FDPIR - CFR 253**

- **Removal of Urban Place Definition**

- AFPC recognizes that this proposal comes from input by Tribal leaders during Nation-to-Nation consultations with FNS leadership and it is good to see this proposal here, as it reflects nearly a decade of dialogue between FNS and Tribal leaders. The proposed change allows ITOs to serve Tribal citizens in urban areas without the administrative burden of requesting and justifying the need. Removing this barrier reflects the contemporary living situations of Tribal members and descendants and is necessary to meet their needs. AFPC does strongly encourage USDA to include language making it clear that an ITO has the option to serve these urban places if the ITO so chooses, but that it is not a requirement. This small change preserves Tribal sovereignty in offering this program and eliminates a burdensome and needless administrative requirement at the same time.

- **Require FNS to periodically assess how USDA Foods provided in FDPIR compare to Dietary Guidelines for Americans and the market baskets of the Thrifty Food Plan, and adjust as needed as practicable.**

- AFPC believes that culturally appropriate foods must be a cornerstone of food security for all Alaskans, and we support USDA's efforts to make progress in this direction. FNS' cooperation with the FDPIR Food Package Work Group is another example of successful collaboration between the agency, its partners, and ITO staff distributing these packages to participants. We support Tribal leaders from the FDPIR Working group in their efforts to encourage FNS and its federal partners to streamline the process of adding new food package items in a timely manner when responding to requests arising from Tribal dietary needs and preferences. AFPC supports rulemaking that ensures periodic assessments will not be used to reduce or to eliminate items or quantities without ITO support. Finally, joining with the requests from Tribal leaders, we call on FNS to extend parity provisions from SNAP to FDPIR when the FDPIR is increased. During the pandemic, food package quantities failed to keep pace with the expansion of SNAP benefits. This cannot be allowed to take place in the future, especially in times of national emergencies. USDA could require any increase or decrease in SNAP benefits to immediately trigger FDPIR package review. Tribal leaders have asked for this before, and it would support greater parity between the programs.

- **Mirroring SNAP regulations by granting separated spouses living apart the ‘separated household status’ and matching SNAP requirements determining parental control of minor children.**
  - AFPC strongly supports this proposed rule change, which increases parity with SNAP. This will allow for greater flexibility for Tribal families who – for whatever circumstances – live in separate households and who have previously been denied the ‘separated household status’ because one is an FDPIR participant. In other instances, only heads of households could make a request to have a child removed from SNAP participation, essentially barring enrollment in FDPIR even if they were no longer in the SNAP-receiving household. By again keeping SNAP and FDPIR requirements in parity, participants have a more seamless opportunity to migrate from either program through commonly held verification standards.
  
- **Increasing FDPIR shelter and utility standard deductions to SNAP maximum deduction levels and allowing FDPIR households to use actual expenses to calculate the deductions.**
  - AFPC strongly supports this change, and we believe it is a critical update to the FDPIR program. This is a much-needed change, and another that comes directly from the Tribal Leaders Consultation Work Group which sits in consultation with FNS three times a year to address challenges within FDPIR. For these programs to be successful in parity and increasing access, they cannot fail to incorporate the increased costs of living and transportation in geographically remote Alaska Native villages, the lack of available vendors to service these areas, and the challenge for participants to reach distribution points without all-weather and reliable transportation. Tribal leaders most recently noted that FDPIR participants have essentially been punished with lower support compared to their SNAP counterparts because inflation adjustments to the Standard Utility Allowance were not given to FDPIR participants. This change to the deduction calculation will increase FDPIR access for Tribal citizens and begins to acknowledge and take into account the varying circumstances in many Tribal communities. This sentiment has been echoed by many ITO staff and it is good to see USDA listening and responding to what Tribal leaders raise in consultation in affirmation of the Nation-to-Nation relationship that we share.
  
- **Exploring other income guidelines and data sources for FDPIR participation outside of information from U.S. Department of Health and Human Services (HHS) and FNS resources.**

- AFPC generally supports broad categorical eligibility for improved access and administrative streamlining for FNS programs, including FDPIR. HHS and FNS income guidelines based in national and regional standards do not always accurately reflect the situations of those living in Alaska’s Native villages. FNS should simplify this process by providing for an alternate calculation for determining eligibility. USDA should allow applicants to qualify using either of the following formulas to determine FDPIR eligibility: (1) increased gross income guidelines, without deductions, or (2) current guidelines that include increased shelter and utility cost deductions.
- **Exploring making FNS use gross income guidelines without deductions in income eligibility determinations.**
  - We encourage the USDA to provide flexibility to ITOs in establishing income eligibility thresholds that meet the needs of eligible participants to ensure equitable access to food programs. As repeated through the years of consultations, one of the main challenges in securing full program participation is staff and administrative time in appropriately navigating federal participation guidelines in these programs. Many ITOs operate on razor-thin financial margins, having minimal administrative staff capabilities compared to the needs of eligible participants. Using eligibility criteria that accept gross income guidelines without deductions would simplify the process for many ITOs. Localized guidelines – down to the Tribal level, or at least, county level – will better reflect the income eligibility situation for program participants.
- **Increasing the threshold for which an ITO or State agency must verify a change in income from \$50 to \$100**
  - AFPC supports reduction in administrative burden, which we believe this proposed change will do. This allows our ITOs and State agencies to focus on meeting the needs of eligible participants and not overburden administrators or participants.
- **Requesting public comment from ITOs on whether administrative funding methodology meets their needs to run the programs, how it can be improved, and how effective the regional allocation and budget negotiation process is. Also requesting comment on whether another model would better serve ITOs.**
  - While AFPC is an FDPIR administering agency, we would like to thank the Department for taking seriously the input of Tribal leaders and ITOs on this question. We strongly encourage Tribal inclusion in the budget negotiation

process, and continual improvements to how USDA upholds its federal trust responsibility.

- **Adding a waiver capability allowing FNS to waive or modify specific regulatory requirements for ITOs in certain situations.**

- AFPC would like to highlight and affirm our support of the following comments from the Indigenous Food & Agriculture Initiative: The need for more programmatic flexibility that respects Tribal sovereignty in offering these programs has also been a repeated topic at Nation-to-Nation consultation between FNS and Tribal leaders. As Tribal leaders have pointed out in consultation, when these programs were originally designed, it was often without robust input—or indeed, any input—from Tribal nations, and offering them today in the Nation-to-Nation era often poses challenges as a result. Waiver authority has been used across numerous federal departments to break through bureaucratic and regulatory barriers in order to help Tribes and their federal partners be more responsive to the unique needs of Tribal citizens on a Tribe-by-Tribe basis. Tribal leaders have previously proposed that FNS honor the broad waiver language of Executive Order 13175, which applies to all federal departments and would enable waiver of discretionary provisions in programs. So far, Tribal requests to apply that existing waiver language to specific FDPIR programmatic circumstances have not been met with approval. FNS has been reluctant to utilize this language. It seems that the waiver language proposed here is an attempt at compromise. To the extent that this waiver language offers more flexibility than exists currently and establishes a process for providing that flexibility, this is a positive proposal. This waiver language also brings FDPIR waiver circumstances in line with the Supplemental Nutrition Assistance Program (SNAP), which has also been a goal of Tribal leaders as expressed in Nation-to-Nation consultation with USDA. However, the proposed language here is much less broad than Tribal leaders have requested. We also have concerns about the nature of the documentation USDA would expect a Tribe to provide when making a request and providing a “compelling reason” for a proposed change. For Tribal nations, the exercise of our sovereignty is the only compelling reason needed; reasons beyond that are merely creating burdensome paperwork and administrative processes for both Tribes and USDA alike. More dialogue is likely needed in consultation on this issue with USDA, especially around the conditions under which a Tribe might be granted a waiver. Broad waiver authority like that already existing in EO 13175 both honors sovereignty and enables quick adaptation to unknown future needs. Before 2020, no one

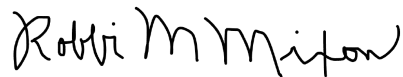


envisioned the circumstances brought on by the COVID pandemic. Programs without flexibility were greatly disadvantaged and the most vulnerable populations suffered. We must build flexibility into programs so that they may continue to operate effectively, even during times of unforeseen circumstances.

In summary, the FNS proposals contain some positive changes for each of these programs, and thoughtful integration of feedback from Tribal leaders and others on the ground administering these programs to our citizens. Alaska is the largest state in the nation, with the smallest population density. By further incorporating the suggestions above, we believe progress in program delivery can only improve, thus meeting the mutual goal of reducing hunger and increasing food security in Alaska and across the United States.

Thank you again for the opportunity to comment on these proposed regulations.

Sincerely,



Robbi Milton, Executive Director

On behalf of the AFPC Governing Board & Staff

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