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1320 Braddock Place, 3rd Floor
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Re: Comments on USDA Food and Nutrition Service Food Distribution Programs: Improving Access and Parity
Proposed Rule: RIN Number 0584–AE92, Document ID: FNS-2023-0026

Dear Mr. Walton:

On behalf of **MAZON: A Jewish Response to Hunger**, I am writing today regarding the USDA Food and Nutrition Service request for input on the proposed rule to amend regulations to make access and parity improvements within several food distribution programs including the Commodity Supplemental Food Program (CSFP), the Food Distribution Program on Indian Reservations (FDPIR), The Emergency Food Assistance Program (TEFAP), and USDA Foods in Disasters Program.

MAZON applauds USDA for taking this opportunity to improve access and parity in the food distribution programs through regulatory updates based on insights and lessons learned during the COVID-19 pandemic. The pandemic had a significant impact on the nation's food system and economy, and it created unprecedented levels of hunger,[1] exposing gaps in federal and farm programs, overwhelming the emergency food network, and straining Tribal governments when COVID relief funds were delayed.[2] Improving access and parity in USDA food distribution programs through this rulemaking can have a meaningful impact in achieving more equitable food and nutrition security for millions of vulnerable Americans.

[1] Keith-Jennings, Brynne, et al. Center on Budget and Policy Priorities, *Number of Families Struggling to Afford Food Rose Steeply in Pandemic and Remains High, Especially Among Children and Households of Color* (2021). https://www.cbpp.org/research/food-assistance/number-of-families-struggling-to-afford-food-rose-steeply-in-pandemic-and

[2] Government Accountability Office. (2013). COVID Relief Funds: Lessons Learned Could Improve Future Distribution of Federal Emergency Relief to Tribal Recipients. (GAO Publication No. 23-105473). Washington, D.C.: U.S. Government Printing Office

Inspired by Jewish values and ideals, MAZON is a national advocacy organization working to end hunger among people of all faiths and backgrounds in the United States and Israel. For nearly 40 years, MAZON has been committed to ensuring that everyone has equitable access to the resources they need to be able to put nutritious and culturally relevant food on the table. MAZON is a leading voice on anti-hunger issues, particularly for populations or on issues that have been previously overlooked or under-addressed — this includes food insecurity among military families, veterans, single mothers, college students, the people of Puerto Rico, Native Americans and Indigenous communities, and LGBTQ+ older adults. It is with this experience that we focus our comments around vulnerable populations so that eligible participants can more easily and equitably access these food programs, and so that requirements for program operators are streamlined.

Tribal Nations and Indigenous Communities

An important piece of MAZON's work focuses on strengthening and improving federal nutrition assistance programs in Indian Country so that Tribal communities can sustain and nurture themselves with safe, affordable, nutritious, accessible, and culturally-appropriate food. MAZON's support of Native-led policy change to advance food security and food sovereignty in Indian Country is rooted in the recognition that Tribal Nations are sovereign and entitled to Tribal self-determination. By partnering with Native advocates and communities to advance Native-led change and food sovereignty, MAZON works to strengthen Indian Country food systems and improve access to healthy and traditional foods.

In our role as a founding non-Native ally member of the Native Farm Bill Coalition, MAZON staff have attended USDA Tribal Consultations on FDPIR regularly for the last several years. We have witnessed the tireless advocacy of Tribal leaders across multiple Tribal government and U.S. presidential administrations, so it is gratifying that several of USDA's proposals reflect Tribal leadership's input during Consultations. The Tribal Leaders Consultation Working Group (TLCWG) and USDA have made much progress on many issues, some of which have been in the works for many years. The following comments are meant to reflect the years of advocacy by Tribal leaders, the TLCWG, and ITO staff working with USDA.

The Commodity Supplemental Food Program (CSFP)

1. USDA Proposal: Increase the maximum CSFP income eligibility standards at 150% of the federal poverty level while requesting public comment on a standard of 185%.

While a limited number of Tribal organizations operate Commodity Supplemental Food Programs (CSFP), increasing eligibility guidelines to match the challenging socio-economic circumstances in certain parts of Indian Country is a positive adjustment. Similar to challenges in using national and regional data in determining eligibility for FDPIR, the current CSFP income guidelines of 130% of the federal poverty level often do not capture the economic situation on the ground in remote, geographically isolated Tribal jurisdictions.

These circumstances are why we also support FNS's approach at opening comment to raising the standard to 185% of the federal poverty level. Many Tribal jurisdictions are situated in economically challenged parts of the country, and elders there live in circumstances distinctly different from their counterparts in suburban and urban communities. We welcome this opportunity to comment and hopefully increase the income guideline in hopes of assisting more eligible participants.

2. USDA Proposal: Requesting public comment about allowing CSFP applicants to be eligible via participation in other federal means-tested programs with income limits at or below those of CSFP.

As noted above, a limited number of Tribes and Indian Tribal Organizations (ITOs) operate CSFP. Many of those who do also manage other federal means-tested programs with eligibility guidelines similar to those of CSFP. In practicality, that means program staff working with these populations often face duplicative tasks in verifying eligibility. For many ITOs, staff and administrative capabilities are limited at the best of times. Simply put, they do not have the technical infrastructure, financial means, and personnel to carry out overly burdensome and duplicative paperwork compared to their state counterparts.

We welcome any opportunity to streamline this process for CSFP ITO program staff by using eligibility data that matches CSFP to keep elders fed.

3. USDA Proposal: CSFP state and local agencies may establish other methods of verifying the identity of participants when receiving a food package.

Although CSFP is a federal program, Tribes operate in a distinctly different legal, jurisdictional, and practical environment than their state and local counterparts. Allowing Tribes the option to use their own culturally relative methods of identity verification, such as through Tribal identification cards or Certificate of Degree of Indian Blood (CDIB) respects Tribal sovereignty and supports the efficient management of the program.

4. USDA Proposal: CSFP state agencies are required to annually post a list of all local agencies and recipient agencies on a public website, as well as making the current state plan available on a public website.

This reflects current practices and potentially increases awareness of the program, and we have no problem with this being added as a requirement. Many ITOs already have websites or social media accounts where this information is listed, so the requirement of listing local and recipient agencies online should not be an undue burden on ITOs. However, we offer an additional recommendation: states should be required to include ITOs offering CSFP in their annual online listings or promotional materials so that any Tribal citizen who visits the state website will see that a Tribe is offering the program as well. Tribal citizens may feel more comfortable connecting with a Tribal CSFP, which would support the goal of increasing access to this critical program.

Additionally, although we know the regulatory definition of “state agency” includes ITOs, when dialoguing about these programs or writing prefatory language to proposed regulations, as here, we urge USDA to always explicitly include a call-out for Tribal Nations or ITOs. For example, here, USDA has written: “The Department proposes adding a new provision at § 247.5(b)(16), which would require state agencies to make publicly available a list of all CSFP distribution sites, including both local agencies and agencies operating under an agreement with a local agency." Small changes here can make a big difference with Tribes and Tribal citizens understanding that they are eligible to access and operate this program. We suggest revising this section to reflect that "The Department proposes adding a new provision at § 247.5(b)(16), which would require state agencies, **including Indian Tribal Organizations**, to make publicly available a list of all CSFP distribution sites, including both local agencies and agencies operating under an agreement with a local agency."

This is a small change in language that increases awareness that Tribes can and do operate this program, not only to potential Tribal elders in need of services and support, but also to Tribal Nations that do not currently operate the program. It is challenging for Tribes to see themselves as eligible to administer these critical programs when the language used to describe administrators is entirely state-based. Again, we understand that the regulatory definition of a state agency does include Tribes and that it would likely take an act of Congress to separate the two for the purposes of the regulation, but where there are opportunities for Tribes to be called out as well, we urge USDA to take that step in communications.

5. USDA Proposal: Where applicable, local agencies must share written information and referrals to the Senior Farmers' Market Nutrition Program (SFMNP) to expand awareness and access to the program.

Many ITOs already manage or partner with SFMNP in their areas, and this proposal would not be considered overly burdensome on their existing work. However, there remain instances of non-Tribal local and state agencies who operate in the general vicinity of ITOs without knowing the former exist. We suggest that the FNS regional Tribal liaisons in each region support Tribal Nations by providing periodic updates on other CSFP or SFMNP program operators in the area.

6. USDA Proposal: Technical corrections in language, titles, and other items.

Finally, we welcome the proposed changes that replace outdated terminology, such as "commodities" and "elderly" in regulatory language. In those, and other suggested proposals removing cross-citations to women, infants, and children receiving CSFP benefits as they are no longer a part of the program in the technical corrections, we see no additional need for input.

The Food Distribution Program on Indian Reservations (FDPIR)

1. USDA Proposal: Remove the current definition of ‘urban place’ and allow ITOs to service urban places outside of reservations without submitting a request and justification.

This proposal comes from input by Tribal leaders during Nation-to-Nation Consultations with FNS leadership and we welcome its inclusion, as it reflects nearly a decade of dialogue between FNS and Tribal leaders. As a result of historic federal policies, enrolled citizens and descendants of Tribes across the country may live in urban areas outside the reservation. Yet they still face challenges in securing stable, nutritious foods, and they often have difficulty in obtaining FDPIR services despite living in a Tribe’s FNS service area. 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.

We do offer one cautionary recommendation, which was also offered by some Tribal leaders during consultation on this issue. USDA must include language in this updated regulation that makes it clear an ITO has the option to serve these urban places if the ITO so chooses, but that it is not a requirement. It should not be a mandatory requirement on any ITO to offer FDPIR to these areas given the limitations many have in personnel, administrative, and transportation capabilities. This small change preserves Tribal sovereignty in offering this program and eliminates a burdensome and needless administrative requirement at the same time.

2. USDA Proposal: Adding a waiver capability allowing FNS to waive or modify specific regulatory requirements for ITOs in certain situations.

MAZON urges USDA to heed the longstanding Tribal leadership feedback to add a waiver capability that honors the broad waiver language of Executive Order 13175 in updates to the rule.

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 consultations, 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 has 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 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.

3. USDA Proposal: Increasing FDPIR shelter and utility standard deductions to SNAP maximum deduction levels and allowing FDPIR households to use actual expenses to calculate the deductions.

This is a much-needed change, and another that comes directly from the Tribal Leaders Consultation Work Group that sits in consultation with FNS three times a year to address challenges within the Food Distribution Program on Indian Reservations. As mentioned above, too often regional and state-focused program calculations fail to consider the distinct conditions present on Tribal reservations and Alaska Native village jurisdictions. State SNAP calculations often fail to incorporate the increased costs of living and transportation in geographically remote reservations, the lack of available vendors to service these areas, and the challenge for participants to reach distribution points without reliable transportation.

Tribal leaders most recently noted that FDPIR participants have essentially been punished with lower levels of support compared to their SNAP counterparts because inflation adjustments to the Standard Utility Allowance were not given to FDPIR participants.[3] 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 to what Tribal leaders raise in consultation in affirmation of the Nation-to-Nation relationship that we share.

4. USDA Proposal: Mirroring SNAP regulations by granting separated spouses living apart the 'separated household status' and matching SNAP requirements determining parental control of minor children.

This is another much needed change that has come from consultations. This will allow for greater flexibility for Tribal families who — for whatever circumstances — live in separate households and

[3] Meeting Minutes From Tribal Leaders Consultation Working Group Food Distribution Program on Indian Reservations, (Aug. 2, 2022)(on file with IFAI).

who have previously been denied the ‘separated household status’ because one is a 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.[4] 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.

5. USDA Proposal: Institution of periodic assessments of USDA Foods in FDPIR packages to Dietary Guidelines for Americans (DGA) and adjustment of its contents consistent with basic dietary needs.

FNS’s 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. By hearing from ITO staff on the frontlines of this work, the Department has made progress in incorporating more nutritious and, on occasion, culturally-appropriate foods for American Indian and Alaska Native participants. Tribal leaders from the FPDIR Working group 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.[5] We applaud FNS’ clear statement in the proposed rule language noting these periodic assessments will not be used to reduce or to eliminate items or quantities without ITO support.

Finally, echoing requests from Tribal leaders, we call on FNS to extend parity provisions from SNAP to FDPIR when the latter is increased. During the pandemic, food package quantities failed to keep pace with the expansion of SNAP benefits.[6] 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.

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4 Meeting Minutes From Tribal Leaders Consultation Working Group Food Distribution Program on Indian Reservations, (Aug. 11, 2021) (on file with IFAI).

5 Meeting Minutes From Tribal Leaders Consultation Working Group Food Distribution Program on Indian Reservations, (June 27, 2023) (on file with IFAI).

6 Meeting Minutes From Tribal Leaders Consultation Working Group Food Distribution Program on Indian Reservations, (Dec. 6, 2023) (on file with IFAI).

6. USDA Proposal: 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.

HHS and FNS income guidelines based on national and regional standards do not always accurately reflect the situations of those living in Indian Country. FNS should simplify this process by providing 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.

7. USDA Proposal: Exploring making FNS use gross income guidelines without deductions in income eligibility determinations.

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 margins, having minimal administrative staff capabilities compared to the needs of eligible participants. Using eligibility criteria that accepts gross income guidelines without deductions would simplify the process for many ITO staff who have noted that localized guidelines — down to the Tribal level, or at least, county level — will better reflect the income eligibility situation for program participants.

8. USDA Proposal: 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.

Tribal leaders and ITO staff who operate programs in the food and nutrition space always welcome the opportunity to comment on programmatic updates that may improve their delivery. As mentioned above, ITO staff are often limited in time and resources. Regional allocation and budget negotiations simply do not capture the full scope of challenges ITOs deal with compared to state counterparts operating SNAP.

MAZON's partners at the National Association of Food Distribution Programs on Indian Reservations (NAFDPIR) recently conducted a membership survey of ITOs on this issue. Responses were varied, with some ITOs indicating that the current structure meets needs, while many others shared that the current administrative funding methodology is lacking and needs to be adjusted. Proposals for how to do so varied but included calls for increased flexibility with administrative funds used to operate the programs. Given the varied responses and unique needs of each Tribe, USDA should work with NAFDPIR to seat a working group on this issue, following a similar process to that used in 2008.

Additionally, we share the sentiments of Tribal leaders' longtime calls for better overall Tribal inclusion into the USDA annual budget negotiation process, a framework that has long existed at other federal departments. This would not just support better, more harmonious partnerships between ITOs and USDA, but would support Tribes as a whole in accessing USDA authorities and helping to ensure that USDA upholds its federal trust responsibility. Giving Tribes the ability to help shape these programs in partnership with USDA would go a long way to supporting their success before agency appropriations requests begin for each fiscal year.

9. USDA Proposal: Technical corrections in language, titles and other items.

Finally, we welcome the proposed changes that replace outdated terminology, such as "commodities" and "food stamps" in regulatory language. In those, and other suggested proposals in the technical correction, we see no additional need for input.

In summary, the FNS proposals contain positive changes, not just for FDPIR. They show thoughtfulness in considering the processes that challenge and impact ITOs using these programs, and that have been the basis of feedback from Tribal leaders at Consultations for several years now. By further incorporating the suggestions above, we believe progress in program delivery can only improve.

Older Adults including LGBTQ+ Older Adults

For decades, MAZON has been concerned about the growing hunger crisis among older adults in the U.S. One in five Americans are projected to be 65 or older by 2030;[7] more than 16.5 million seniors will find themselves economically insecure[8] with fewer pensions and inadequate retirement benefits. According to the U.S. Census Bureau, older adults aged 65 and over experienced a concerning increase in poverty between 2020 and 2021, with one million more seniors plunged into poverty.[9] For people aged 60 and over, nearly 5.5 million — 1 in 14 — experienced food insecurity.[10]

Acutely aware that LGBTQ+ older adults experience high rates of food insecurity, MAZON has prioritized advocacy efforts for this uniquely vulnerable population. Among food insecure older adults, LGBTQ+ individuals are as much as 60% more likely to experience food insecurity than their non-LGBTQ+ counterparts.[11] Many of the reasons for the disturbingly high levels of food insecurity include systemic and historically persistent discrimination, victimization, and social isolation. This in turn has meant exclusion from resources typically available to others as they age, including traditional retirement resources.

The Commodity Supplemental Food Program (CSFP)

In the context of the vulnerabilities outlined above, MAZON offers the following comments on the USDA proposed revisions to CSFP regulations to achieve greater parity and improve access to CSFP for older adults.

1. MAZON supports USDA's proposal to increase the maximum income eligibility threshold from 130% of the federal poverty level to 150% to help bridge the gap between the number of older adults

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[7] Vespa, Jonathan, Lauren Medina, and David M. Armstrong, "Demographic Turning Points for the United States: Population Projections for 2020 to 2060," Current Population Reports, P25-1144, U.S. Census Bureau, Washington, DC, 2020.

[8] U.S. Census Bureau. POV-01. Age and Sex of All People, Family Members, and Unrelated Individuals, 2021. Found on the internet at https://www.census.gov/data/tables/time-series/demo/income-poverty/cps-pov/pov-01.html.

[9] John Creamer, Emily A. Shrider, Kalee Burns, and Frances Chen, U.S. Census Bureau, Current Population Reports, P60-277, Poverty in the United States: 2021, U.S. Government Publishing Office, Washington, DC, September 2022.

[10] Gundersen, C. & Ziliak, J. (2023). The State of Senior Hunger in 2021. Report submitted to Feeding America.

[11] Brown, Taylor N.T., Romero, Adam P., Gates, Gary J. (2016). Food Insecurity and SNAP Participation in the LGBT Community. Los Angeles, CA: The Williams Institute, UCLA School of Law.

served and the total eligible caseload population nationwide. We understand that USDA recommends the 150% level without a medical deduction to simplify program administration for both applicants and local agencies.

Regarding USDA's request for public comment on a preference between the current proposal to increase CSFP's maximum income eligibility guidelines to 150% of the federal poverty level or an alternate level of 185% of the federal poverty level, MAZON urges USDA to implement the 185% level. This would bring CSFP into parity with the Senior Farmers' Market Nutrition Program (SFMNP) eligibility guidelines, and it would recognize the disproportionate health and economic impacts that the COVID-19 pandemic has had on older adults.[12]

2. MAZON supports a future change to allow states and Tribal agencies to accept participation in other Federal means-tested programs such as SNAP, FDPIR, and SSI to determine eligibility for CSFP. This change has the potential to expand access to eligible older adults not currently participating in CSFP.

In addition, we recommend that all USDA feeding programs, as well as Social Security, SSI, Medicare and Medicaid be included in determining categorical eligibility.

3. MAZON supports USDA in adding an option for state and Tribal agencies to have the flexibility to include state means-tested programs to determine eligibility for CSFP in addition to Federal means-tested programs. We believe this option would advance USDA's goal to improve and increase access and parity to CSFP for more older adults in need.

4. MAZON agrees that state and Tribal agencies should be allowed the flexibility for alternative methods of identity verification for CSFP.

5. MAZON agrees that CSFP state and Tribal agencies should be required to annually post a list of all local agencies and recipient

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[12] Nikitra Bailey and Ashley Barrington, "*The Economic Impact of the Pandemic on Older Adults,*" American Society on Aging Generations Journal, Spring 2022, https://generations.asaging.org/economic-impact-pandemic-older-adults#:~:text=The%20pandemic%20also%20exacerbated%20the,income%20for%20rent%20and%20utilities. (accessed October 12, 2023).

agencies on a public website, as well as making the current state plan available on a public website.

6. MAZON supports that where applicable, local agencies must share written information and referrals to the Senior Farmers' Market Nutrition Program (SFMNP) with applicants. This would increase awareness and access to other senior nutrition assistance programs relevant to CSFP participants.

7. MAZON agrees with USDA's updates to language including replacing the outdated term "commodities'' with "USDA Foods," removing references to "elderly" and replacing "elderly" with "participants" as the program is now seniors only, and removing cross-citations to the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) regulations as CSFP is now seniors only.

8. MAZON agrees with the USDA proposal to update § 247.37(a) to advise the public that CSFP must be operated in accordance with the most up-to-date USDA nondiscrimination statement. The proposed change to § 247.37(a) would align the regulations with the nondiscrimination statement if it changes in the future.

<u>All Populations</u>

The Emergency Food Assistance Program (TEFAP)

MAZON appreciates the critical lifeline that TEFAP provided during the COVID-19 pandemic, and has the following comments on USDA's proposals to increase parity and access to the program.

1. MAZON agrees with USDA's proposal that state agencies must set income eligibility guidelines between 185% and 250% of the Federal Poverty Guidelines. We understand that the proposed revision would reduce the variance in income eligibility criteria across states, and that a national, allowable range for income eligibility would allow the Department to protect TEFAP access for those individuals most in need while simultaneously providing state agencies flexibility to develop maximum income-based eligibility standards above this range, subject to FNS approval.

2. MAZON agrees with USDA’s proposal that state agencies must develop a process for requesting residency information from households to determine eligibility, but may not require households to provide an address or identification to confirm residency. This would ensure that TEFAP agencies would retain the ability to develop statewide eligibility criteria which fit their needs, while supporting program access for vulnerable individuals and households.

3. MAZON supports USDA’s proposal that TEFAP state agencies be required to annually post a list of all eligible recipient agencies on a public website, in addition to making participant eligibility information available on a public website to increase awareness of the program and encourage greater participation.

4. MAZON supports USDA’s proposal removing federal address collection requirements for TEFAP participants who receive USDA Foods for home consumption as it is administratively burdensome for program operators and does not serve a demonstrated program need. The COVID–19 pandemic increased demand at emergency feeding organizations and resulted in long lines for families searching for food assistance. Removing the federal address collection requirement would simplify the administration of TEFAP for eligible recipient agencies, and also allow states to develop more streamlined methods for determining TEFAP applicant residency to help local program operators reduce wait time for food distribution.

5. MAZON agrees with USDA’s proposal to add a requirement that TEFAP participant information must be kept confidential and limits are established on the disclosure of information obtained from applicants or participants and the identity of persons making a complaint or allegation against persons participating in or administering the program.

6. While we appreciate the intent of USDA’s proposal to encourage state agencies and eligible recipient agencies to implement or expand distributions of USDA Foods in Tribal areas, in addition to the rural areas, MAZON has serious concerns about the likelihood of states taking action if the regulation only “encourages'' them to bring TEFAP to Tribal areas. In our experience, states take action when FNS requires them. States do not take action when FNS encourages,

provides guidance or does anything that does not mandate. It is clear and understood that rural, remote, and Tribal areas are accepted as vulnerable populations that have specific challenges related to access and transportation.

In order for USDA to make significant improvements to access and parity in TEFAP for Tribal areas, states must be required to serve Tribal areas and should engage in meaningful consultation with Tribes in recognition of Tribal sovereignty and self determination.

The most effective way to improve access and parity in TEFAP in Tribal areas will be for Congress to designate Tribes as legally eligible to administer TEFAP. Among the Native Farm Bill Coalition's priorities for the next Farm Bill is ensuring that Tribes will have the option to administer TEFAP.

7. In addition, MAZON recommends that USDA seriously consider adding the veteran population to this list to expand distribution of USDA foods to address the high rates of food insecurity among veterans. State and county veteran service offices, U.S. Department of Veterans Affairs (VA) facilities, and veteran service organizations could potentially be partners in a proactive effort to increase veteran participation in TEFAP and other federal nutrition programs.

8. MAZON supports USDA's proposal to make updates to advise the public that TEFAP must be operated in accordance with the most up-to-date USDA nondiscrimination statement. We understand the proposed change would align the regulations with the current applicable USDA nondiscrimination statement and any future changes to the nondiscrimination statement.

9. MAZON supports USDA's proposed revisions that would update the information that must be included in TEFAP state plans for Farm to Food Bank Projects, and ensure that state agencies can easily locate all requirements for these projects in the regulations.

10. MAZON supports USDA's proposed technical updates to replace outdated the terms ``commodities," "food commodities," "TEFAP commodities," "TEFAP foods," "donated foods," and "donated commodities'' to "USDA Foods."

USDA Foods in Disasters and Situations of Distress

MAZON appreciates USDA's proposals based on lessons learned during the COVID-19 pandemic to streamline and clarify regulations. MAZON's comments follow.

1. MAZON supports USDA's proposal to remove the prohibition on the simultaneous provision of USDA Foods in Disasters or Situations of Distress and Disaster SNAP (D-SNAP) benefits. Because the prohibition is not in the statute, removing the prohibition will allow for greater flexibility and increase access to both programs for participants in an emergency, disaster, or situation of distress.

2. MAZON does not support USDA's proposal to require state distributing agencies operating a disaster household distribution past 14 calendar days to submit a weekly report to FNS on the number of individuals served and on the amount of USDA Foods issued. Regardless of the length of the disaster or emergency, USDA should prioritize getting food to those in need and reducing the administrative burden on state and local agencies. MAZON recommends retaining the current regulation in which state distributing agencies are required to report types and amounts of USDA Foods used in disaster assistance 45 days after the termination of disaster assistance regardless of the length of the disaster or emergency.

3. MAZON supports USDA's proposal that would ensure that the use of USDA Foods for disaster response activities does not have an ongoing negative impact on the operation of other programs. USDA Foods for disaster response activities are typically drawn from local USDA Foods inventories that support permanent programs such as TEFAP. The prolonged nature of the COVID–19 pandemic has been atypical when compared to previous Presidentially declared disasters or emergencies that lasted weeks or months rather than years. This provision would ensure that state agencies consider the operation of other USDA Foods programs when making decisions about using USDA Foods for disaster response activities.

4. MAZON supports USDA's proposal to replace the outdated terms "commodities," "food commodities," "donated commodities," and "donated foods," with "USDA Foods."

MAZON recognizes and appreciates the committed efforts by FNS to continue to improve and increase access and parity to USDA nutrition programs, as are reflected in these regulation proposals.

Thank you for your consideration. We look forward to continuing to work with USDA in our mutual pursuit for food and nutrition security for all Americans, and would be pleased to assist in answering any questions.

Sincerely,

Abby J. Leibman
President and CEO
MAZON: A Jewish Response to Hunger

Cc:
Stacy Dean, Deputy Under Secretary, USDA Food, Nutrition, and Consumer Services
Cindy Long, Administrator, USDA Food and Nutrition Service