City Harvest EFAP TESTIMONY: Proposed Emergency Food Assistance Program Rule

August 12, 2022

Submitted Via https://rules.cityofnewyork.us/

HRA Rules c/o Office of Legal Affairs
150 Greenwich Street, 38th Floor
New York, NY 10007

Dear Sir/Madam,

On behalf of City Harvest, I am submitting comments in response to the New York City Human Resource Administration's (HRA) proposal to repeal the existing rule entitled "Distribution of Food and Administrative Funds to Emergency Food Providers" Chapter 4 of Title 68 of the Rules of the City of New York and replace it with a rule entitled "Emergency Food Assistance Program".

City Harvest is one of New York's largest and longest operating food rescue organizations. For the past 40 years, City Harvest has rescued over one billion pounds of food (over two-thirds of which is produce) through our network of food donors and delivered it free of charge to over 400 community food programs. City Harvest also relies of government programs like EFAP to add more variety and staple items for our community food distributions at nearly a dozen NYCHA developments. EFAP has been critical for us to ensure that we are supplementing our donated food with staple items. Well over 2.4 million New Yorkers who lack the income to balance the cost of food with housing, transportation, child care and medical expenses leverage City Harvest's partner serves for budget relief; especially during a time with the highest food prices in 40 years. Based on a survey of at least 4,000 City Harvest pantry participants earlier this year, 9 out of 10 survey respondents stated that they will make more trips to pantries this year due to the rising cost of food.

In addition to our operations, City Harvest is also an active leader in food policy spaces. We are currently an active member of the NYC Food Policy Alliance, a multi-sector alliance of 40+ food system stakeholders including frontline CBOs directly impacted by food insecurity. The coalition's mission is to identify and advocate for public policies and funding that promote access to healthy, affordable food to both respond to the recurring food crisis as well as address the ongoing vulnerabilities and injustices of the food system.

To meet our communities' needs during this hunger crisis, we need HRA to take steps to **ensure the new DSS Community Food Connections program is successfully implemented, has increased transparency, encourages more direct input from multiple EFPs, improved payment processes, and allows grantees more flexibility and multiple pathways to implement the program and access funding.** However, City Harvest along with other NYC Food Policy Alliance members are concerned that some of the proposed changes to the Emergency Food Assistance Program (EFAP) being outlined in this new rule from HRA will have a negative impact on the emergency food provider community, our operations, and the constituents we serve. To help improve the administration of the program and ensure that it is as successful and impactful as possible, we recommend the following changes to the EFAP program:

COMMENTS ON THE PROPOSED RULE

Food Allocation and Budget

1. We are concerned about the proposed change to the EFAP funding allocations formula. Under the proposed rule, there is no mention of a clear formula used to determine EFAP budget and allocation amounts for all providers has been replaced with an opaque and subjective process to determine allocations based upon factors like "community need", "capacity", "prior performance" and "racial equity and inclusion". The proposed rule does not outline nor are providers given a definition of these terms, how they will be weighted, how they relate to how much funding will be allocated per provider, or clear understanding of how to quantify them. We ask that HRA define and clarify these terms, the process by which provider budget allocations will be determined using these new criteria, and the kind of data providers need to provide to HRA to demonstrate they meet these factors.
2. We request that HRA work with the Administration and Comptroller's Office to speed up payments to EFAP providers, ensuring they have money up front to cover the administrative costs of implementing the program and are not required to obtain reimbursement for program services. Awaiting reimbursement is especially burdensome for new and small emergency food providers that may not have a line of credit or enough cash on hand to cover up front costs of implementing the EFAP program.
3. We support the inclusion in the proposed rules formalizing HRA's ability to reimburse not-for-profit organizations for infrastructure and operational costs. We also call on HRA to allow EFAP providers to include an annual increase in funding for providers indexed to rising inflation, including food costs and COLA for Human Service Providers, and to tie annual funding allocations to programming levels/goals annually.

Program Eligibility

4. The new language in the proposed rule about how prior to food expiration, food must be used to serve people in need and can not be "traded, sold or disposed of" and that if any EFAP food is spoiled or expires, the "provider must notify HRA before disposing of it" may be become very burdensome for both providers and HRA.
5. We ask that HRA reduce the current burden that exists for emergency food providers trying to obtain EFRO numbers for new locations. To do so, the proposed rules should include eliminating the need to be in a specific geographic area (not relevant for mobile markets) or

in operation for a certain period of time, and requirement to track product by individual EFRO sites. Moving forward, we ask that HRA use this opportunity to update the EFAP rules to require organizations to obtain only one single EFRO and encourage the Administration to look at the P-FRED program as a model to engage providers without the use of EFROs.

6. We are very concerned about the amount of data that pantries and other small emergency food providers are being asked to collect and provide to HRA under this proposed rule. In addition to monthly reports on the number of people served and "any other statistical data that HRA may request", providers are being asked to (a) Maintain records documenting the receipt and distribution of all EFAP food, (b] Maintain receipts documenting all costs associated with the distribution of EFAP food, (c) Retain all records for three years from the end of the calendar year to which they pertain, and permit inspection of those records by HRA personnel, (d) Maintain a copy of food receipt and distribution records at the distribution site, and (e) Maintain requisite permits and licenses to receive and distribute the EFAP food. Since many pantries are run by volunteers, the collection and retention of this information may be too onerous for them to take on. We instead encourage HRA to take responsibility for collecting and holding this data for providers moving forward.

7. The proposed rule also specifies that EFAP providers must make reasonable efforts to provide "balanced, nutritious meals" and should consider "cultural preferences" and "dietary restrictions" of constituents. However, within this rule HRA does not provide a definition of these terms or information or resources for how to determine what cultural preferences or dietary restrictions of our communities are. We request that HRA work with the EFAP advisory group to define these terms and ensure that nutritious and culturally relevant foods are available to EFAP providers through EFAP vendors. The new rule also asks that providers communicate about food allergies to constituents but does not say how. Additional guidance here would be appreciated.

EFAP Advisory Group

8. We support the proposed rules's continued inclusion of an advisory group of EFAP practitioners to inform administration of the EFAP program, including what foods will be provided through the program. We respectfully request that members of NYC Food Policy Alliance be included in this advisory group given our strong expertise in and experience implementing the EFAP program. It is critical that there is accountability to this advisory group and that HRA develops a process to ensure practitioners recommendations are heard, documented, and will be incorporated into EFAP operations moving forward.

9. We are concerned that members of this advisory group are being asked to serve on a volunteer basis without compensation. This may create an equity issue by precluding some practitioners from participating in the group, especially individuals from frontline communities that have deep knowledge of EFAP and food access challenges in their neighborhoods. We call on HRA to allocate funds to compensate practitioners for their time advising the agency on EFAP program administration.

10. We call on HRA to organize a separate meeting with the larger community of EFAP emergency food providers from across the city six months following the vendor transition from Food Bank of NYC to H. Schrier to collect feedback and consult on program operations and administration. We also encourage the agency to commit to an annual meeting with a broad set of emergency food providers to ensure successful implementation of the EFAP

program and ongoing, two-way communication.

Communication with Practitioners and Program Transparency

11. We call on HRA to make the administration of EFAP more transparent and a commitment to publicly sharing program impacts, outcomes, vendor data, and information on how funding allocations to emergency food providers are determined on an annual basis. In addition, we encourage HRA to consider bringing greater transparency to the EFAP administrator RFP and vendor selection process and consider innovative joint contracts and/or sub-contracts for program vendors, including produce contracts.
12. We are greatly concerned about the fact that very few EFAP providers received an email notice about or were made aware of the proposal to repeal and replace the existing EFAP rules by HRA. It is also insufficient that only 2 weeks notice was given for providers to respond to this rule change. Moving forward it is essential that HRA ensure greater awareness of and participation in future rule changes.

Capacity Building Grants

13. We support the proposed language to offer new Capacity Building Grants and make funds available to EFAP food providers, or other nonprofit organizations intending to become EFAP food providers, in order to help them establish or expand their operational capacity, increase services, and to help establish new and expand existing emergency food programs across the city.

Certification Requirements

14. We call on HRA to allow multiple vendors to provide food safety certifications training to EFAP providers to give them greater choice in who they work with to obtain these certifications.
15. The proposed rule explains that HRA may open or close EFAP applications for certain populations or geographic areas but we are concerned about the fact that the agency does not explain why or when that would happen, for how long, or how these closures would be communicated. We believe that this may prevent communities in need participating in the program from accessing needed EFAP funding and ask that HRA provide additional guidance on when EFAP applications may close and why.
16. We also encourage HRA to support the recruitment of additional providers into the program by accepting applications on a more regular basis, and creating a centralized website with all info needed to apply to participate in the program.

CONCLUSION

As practitioners with deep expertise operating the EFAP program, we respectfully request that HRA take these recommendations on how to improve the administration and concerns about the proposed rule into consideration. With these changes, we believe that the EFAP program will be as successful and impactful as possible.

Thank you for the opportunity to submit comments on the proposed rule on the Emergency Food Assistance Program. Please do not hesitate to contact Jerome Nathaniel to provide further information

Sincerely,

Jerome Nathaniel
Director, Policy & Government Relations
City Harvest