



**MET
COUNCIL**

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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

Comment Human Resources Administration's proposed repeal of the rule entitled "Distribution of Food and Administrative Funds to Emergency Food Providers" and replacement with a new rule entitled "Emergency Food Assistance Program."

To Whom it May Concern:

On behalf of Met Council, I'm submitting comment 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."

Founded 50 years ago, Met Council offers a wide range of social services, including affordable housing, benefits access, family violence support, and emergency food programming for poor and near poor New Yorkers. Our Food Programs team operates the country's largest kosher emergency food network. While Met Council Food programs works to meet the needs of every New Yorker facing hunger and food insecurity, we provide exclusively kosher and/or halal food for kosher- and halal-observant New Yorkers who cannot turn to other emergency food providers (EFPs) due to religiously informed dietary restrictions. On average, we serve 204,382 clients per month, up from 184,610 in FY21, 90,406 in FY20, and more than triple the 62,128 served monthly in FY19. As of April 2022, with a remaining quarter left in FY 2022, we had already reached 96% of the total pounds of food distributed in FY 2021. As evidenced by our continued growth, Jewish and Muslim residents of our city rely significantly on our services to stave off hunger. Met Council's network currently supports 19 EFPs that rely on the Emergency Food Assistance Program (EFAP).

Our research, utilizing city data about the now defunct GetFoodNYC program, showed that at least 21% of those relying on emergency food resources in 2020 and 2021 requested either kosher or halal food.¹To meet the needs of these kosher and halal communities, it is imperative that HRA 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**

¹ "Home | MMZ," accessed January 5, 2022, <https://gettingfoodnyc.metcouncil.org/>.

processes, and allows grantees more flexibility and multiple pathways to implement the program and access funding all while considering the specific dietary needs of Jewish and Muslim New Yorkers who cannot consume food products that are unfit for their dietary restrictions.

While we welcome some of the planned improvements to EFAP under these new rules, Met Council and many other EFPs remain concerned that proposed changes to EFAP, outlined in this new rule from HRA, will have a negative impact on the EFP community, our operations, and the constituents who rely on us. 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:

Ensuring Equitable Access for Kosher and Halal New Yorkers: Met Council's Comments on the Proposed Rule

Food Allocation and Budget

- 1) **Incorporate Transparency into the Funding Allocations Formula** - We are concerned about the proposed change to the EFAP funding allocations formula. EFAP has never been transparent about how funding allocation decisions have been made. Under the proposed rule, there is still no clear formula or relevant data used to determine providers' EFAP budget and allocation amounts. Instead, there is opaque and subjective language to determine allocations based upon factors like "community need", "capacity", "prior performance", and "racial equity and inclusion". This 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 a clear understanding of how to quantify them. While we recognize that these factors and their lack of definition may afford some flexibility that providers have rallied for in the past, further provisions in the new rule that prohibit sub-distribution, schedule flexibility, and other factors are in direct opposition to this. We ask that HRA take two immediate actions to address lacking budget transparency. First, HRA, using a data-informed approach, must recognize the need for kosher and halal food that was clearly shown in GetFoodNYC data and ensure that a minimum of 21% of the EFAP budget be designated for the provision of kosher and halal emergency food by agencies who have connections, expertise, and capacity to ensure these products received by those who need it. Second, HRA needs to work directly with providers to understand the flexibility that is important to EFPS while specifically defining 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) **End the Reimbursement Process and Replace it with a Proactive Funding Model** - We request that HRA work with the Mayor's and Comptroller's offices to end the current EFAP reimbursement process and replace it with a proactive funding model. Currently, EFPs are offered reimbursement for an undisclosed percentage of EFAP operating costs, including utilities, equipment, supplies, and staffing, months after they close their fiscal year budgets. HRA also offers no guaranteed reimbursement percentage, leaving organizations to cover EFAP operations costs or carry debts while holding out for an unknowable amount of funding.² HRA must ensure EFPs upfront funds, or at a minimum, a guarantee of funds upfront, to cover the

² In April 2017, Met Council submitted a package for FY16 in the amount of \$74,352. We were reimbursed \$4,500. (6.05%); In March 2018, Met Council submitted a package for FY17 in the amount of \$53,801. We were reimbursed \$36,833. (68.46%); In July 2019, Met Council submitted a package for FY18 in the amount of \$34,124. We received \$28,265. (82.83%).

administrative costs of participating in EFAP. The current reimbursement process leaves providers unable to plan their operations, staff their pantries, and appropriately budget. As the Mayor's Office for Food Policy seeks to ensure greater access in traditionally high-need, under-served communities, this policy further discourages the participation of new providers as awaiting reimbursement is simply not an option for new, small, and even medium-sized EFP non-profits.

Program Eligibility

- 3) **Allow for the Sub-Distribution of Food to Smaller Pantries** - We strongly oppose the EFAP rules explicitly prohibiting the sub-distribution of food to smaller pantries. This provision has always been an issue for many EFPs, as it restricts collaboration and incentivizes food waste. Meanwhile, during the height of COVID-19, P-FRED allowed for sub-distribution. This flexibility made it possible for EFAP recipients to quickly reappropriate food products to those in need regardless of their proximity to a brick-and-mortar pantry. This flexibility is imperative to a nimble and efficient emergency food system. EFPs should be regarded as trusted partners and be allowed to sub-distribute food as required in their daily operations. This rule is punitive and prevents EFPs from getting food directly into the hands of New Yorkers experiencing food insecurity.
- 4) **HRA Must Provide Support for the Additional Data Collection and Record-Keeping Requirements** - We are very concerned about the increased data that pantries and other small EFPs 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. Many pantries are run by volunteers, and the collection and retention of this information is too onerous for them to take on. The responsibility for this tracking should rest with HRA. If HRA is unwilling to do this work, adequate funding for full-time data staff must be included in EFAP budgets for all EFPs.
- 5) **HRA Must Ensure Adequate and Appropriate Food Commodities are Provided to Meet the Needs of Diverse Communities** - The proposed rule specifies that EFAP providers must make reasonable efforts to provide "balanced, nutritious meals" and should consider the "cultural preferences" and "dietary restrictions" of constituents. However, within this rule, HRA does not define these terms, and without a real commitment to ensuring a range of kosher and halal products are available through EFAP, Met Council must often utilize additional resources to maintain balanced and nutritious pantry offerings. As an organization that only serves kosher and halal emergency food, we know firsthand how complex it can be to meet the cultural needs of the diverse communities of New York City, and HRA must incorporate this complexity into the language of EFAP, directly recognizing the various certifications and requirements of the communities we serve. Furthermore, HRA must define "dietary restrictions" as they specifically relate to the communities throughout our city. Additionally, we request that HRA ensure that current EFAP vendors provide nutritious and culturally relevant kosher and halal emergency food products, with adequate product and certification labeling, and that HRA include EFPs that serve kosher and halal in all future vendor selection processes.

EFAP Advisory Group

- 6) **Expand the Advisory Group to Include Kosher and Halal Emergency Food Providers** - While we support the proposed rules' continued inclusion of an advisory group of EFAP practitioners to inform the administration of the EFAP program, including what foods will be provided through the program, we have concerns that there is no specific provision for kosher and halal food providers. In our recent analysis of GetFoodNYC, we clearly showed that 21% of emergency food distributed during 2020 and 2021 was kosher or halal. Met Council has strong expertise and experience in the cultural needs of the communities they serve, and these communities make up a large portion of EFAP recipients throughout the city. Since kosher and halal emergency food is vital within the framework of EFAP, we respectfully request that Met Council be included in this EFAP Advisory Group.
- 7) **HRA and H. Schrier Should Commit to Hold Quarterly Meetings with EFPs** - We call on HRA to continually engage with EFAP EFPs from across the city following the vendor transition from Food Bank of NYC to H. Schrier to collect feedback and consult on program operations and administration. This process has been off to an unencouraging start, and regular monitoring of this transition is essential to ensure the issues we already see are remedied. EFAP has a history of requiring organizations to maintain certain standards, i.e., distributing balanced pantry bags on a regularly reported schedule, while not providing the resources to uphold those standards by delivering unbalanced products on unpredictable delivery schedules. Without regular engagement with EFPs, these issues persist, and as we approach the transition to H. Schrier, we still have no guarantee that this new vendor will work to assuage past problems EFPs have faced. We encourage both the HRA and H. Schrier to commit to a quarterly meeting with a broad set of EFPs, including kosher and halal EFPs, to ensure successful implementation of the EFAP program and ongoing, two-way communication.

Communication with Practitioners and Program Transparency

- 8) **The Administration of EFAP Must Be More Transparent** - We urge HRA to make the administration of EFAP more transparent and to commit to publicly sharing program impacts, outcomes, vendor data, and information on how funding allocations to EFPs are determined annually. 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.
- 9) **HRA Must Improve Its Outreach to EFPs** - We are greatly concerned 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. Giving providers only two weeks' notice to respond to this rule change is also insufficient. Moving forward, HRA must constantly communicate with providers and ensure greater awareness of and participation in all aspects of the program, pending changes, and future rule changes.

Certification Requirements

- 10) **HRA Should Allow Multiple Vendors to Provide Food Safety Certifications Training to EFAP Providers** - We call on HRA to allow multiple vendors to provide food safety certifications training to EFAP providers to give them a greater choice geographically, culturally, and linguistically in whom they work with to obtain these certifications.

Additional Comments from The Roundtable: Allies for Food Access

In addition to the operations work of Met Council's Food Programs team, we also work in community with other providers as a member of The Roundtable: Allies for Food Access, a group of New York City EFPs that came together in 2018 to pursue opportunities for collective purchasing and collaborative advocacy work. Current Roundtable members include Met Council, West Side Campaign Against Hunger, NY Common Pantry, Holy Apostles Soup Kitchen, Project Hospitality, St. John's Bread and Life, POTS, and The Campaign Against Hunger. Together, we operate some of the city's largest pantry and emergency food distribution networks. In 2020 we collectively served over 28.5 million meals to hundreds of thousands of New Yorkers in all five Boroughs.³ In subsequent years we have continued this work, collectively serving more clients, more food, in more locations throughout our city. We offer the following recommendations in solidarity with our fellow Roundtable members.

Food allocation and budget

- 1) 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.
- 2) We encourage HRA to provide financial incentives to EFPs to purchase and serve fresh produce.

Program eligibility

- 3) The new language in the proposed rule that covers food expiration includes that food must be used to serve people in need and cannot be "traded, sold or disposed of" and the subsequent disposal notification requirements is burdensome for both providers and HRA. This provision will add additional reporting burdens to the work of EFPs while providing no tangible benefit to the administration of EFAP. As in our prior recommendation about sub-distribution, if providers were allowed this flexibility, this would likely reduce the overall waste of the EFAP program.
- 4) We ask that HRA reduce the current burden on EFPs trying to obtain EFRO numbers for new locations. The proposed rule should eliminate the need to be in a specific geographic area (not relevant for mobile markets) or in operation for a certain period of time, and the requirement to track products 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 EFRO and encourage the Administration to look at the P-FRED program as a model to engage providers without the use of EFROs.

EFAP Advisory Group

- 5) 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 with 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

³ "Roundtable_AnnualReport2021_FINAL.Pdf," accessed August 9, 2022, https://kkandp.com/wp-content/uploads/2021/08/Roundtable_AnnualReport2021_FINAL.pdf.

administration.

Capacity Building Grants

- 6) We support the proposed language to offer new Capacity Building Grants and make funds available to EFAP food providers or other non-profit organizations intending to become EFAP food providers 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

- 7) The proposed rule explains that HRA may open or close EFAP applications for certain populations or geographic areas, but we are concerned that the agency does not explain why or when that would happen, for how long, or how these closures would be communicated. We believe this may prevent communities in need participating in the program from accessing needed EFAP funding and ask HRA to provide additional guidance on when EFAP applications may close and why.
- 8) 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.

An Additional Note on Issues with the Transition of EFAP to H.SCHRIER

EFAPs, including Met Council, urgently need information and certainty about the EFAP program, how it will be administered going forward, and what funds we will be allocated as providers to operate the program in the coming year. The new DSS Community Connections program was supposed to launch on July 1, 2022, yet now is set to start next month. This information has not been communicated, and we are deeply concerned about the continued failures of communication from HRA. EFAP providers have not received information about when their annual funding allocations will arrive or instructions from H. Schrier on logging in, accessing, or navigating their ordering system. As a result, providers have not been able to see what food or vendors are available to them through the new administrator and have not been able to make any food purchases to meet the current or future needs of their communities. It is critical that these issues be addressed immediately by HRA and that communication between the agency and providers be improved.

CONCLUSION

Based on data directly reported by the Mayor's Office of Food Policy, we now know that at least 21% of New Yorkers in need of emergency food resources require either kosher or halal food. Yet, EFAP and New York City's food policies do not account for this fact in their rules or operations. Though the public health emergency of COVID-19 is seemingly waning, the higher demand for emergency food is not. The combined effects of lingering economic hardships brought on by COVID-19, a looming recession, and historic inflation have coalesced to create higher demand for emergency food than ever before. In June of 2022, Met Council and our fellow Roundtable partners served clients than at any time in the history of our program.

The provisions put forth in this rule require pantries to undertake time-consuming and complex processes, such as data collection and storage, while providing no guaranteed funding to do so, while at

the same time not affording EFPs the trust to make informed decisions about important programmatic factors such as distribution and collaboration. HRA cannot expect EFPs, which are staffed mainly by volunteers and part-time employees, to be at the same time professionalized organizations while also maintaining a paternalistic relationship with their day-to-day operations.

As we progress through this slow recovery, it is imperative that HRA use data, like that reported from GetFoodNYC, and direct input from experienced EFPs to make informed decisions that meet the needs of New Yorkers continuing struggle with the burdens of poverty and food insecurity. The COVID-19 pandemic was a moment in our city's history that illuminated the flaws in our emergency feeding systems, and if we fail to learn from what we have experienced, we will continue to watch hunger negatively impact the lives of millions of New Yorkers.

Met Council, the EFPs of the Roundtable, and direct service providers across New York City are experts in emergency food provision. We respectfully request that HRA recognize this firsthand knowledge of emergency food services and that they take our recommendations on the proposed rule into consideration. With these changes, we believe the EFAP program will be as successful and impactful as possible.

Thank you for the opportunity to submit comments on the proposed rule for the Emergency Food Assistance Program.

Sincerely,
Jessica Chait
Managing Director, Food Programs