



U.S. Department of Agriculture



Office of Inspector General
Southwest Region

Audit Report

Food and Nutrition Service Accountability and Oversight of the National School Lunch Program in Texas

Report No. 27010-5-Te
January 2004



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

Southwest Region - Audit

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DATE: January 23, 2004

REPLY TO

ATTN OF: 27010-5-Te

SUBJECT: Accountability and Oversight of the National School Lunch Program in Texas

TO: William Ludwig
Regional Administrator
Food and Nutrition Service
1100 Commerce Street, Room 5-A-6
Dallas, TX 75242

ATTN: Ronald Rhodes
Regional Director
Special Nutrition Programs

This report presents the results of the subject audit. Your response to the official draft report, dated December 30, 2003, is included in its entirety as exhibit A with excerpts and the Office of Inspector General's (OIG) position incorporated into the Findings and Recommendations section of the report.

Based on the response, management decisions have not been reached for any of the recommendations. The information needed to reach management decisions is set forth in the OIG Position section after each recommendation. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframes for implementation for those recommendations for which a management decision has not yet been reached. Please note that the regulation requires management decisions to be reached for all recommendations within a maximum of 6 months from the date of report issuance. Final action on the management decisions should be completed within 1 year of the date of the management decisions to preclude being listed in the Department's annual Performance and Accountability Report.

We appreciate the courtesies and cooperation extended to us by members of your staff during the audit. If you have any questions, please call me at 254-743-6565, or have a member of your staff contact Amy McCormack, Assistant Regional Inspector General, at 254-743-6566.

/s/ T. R. Milliken
TIMOTHY R. MILLIKEN
Regional Inspector General
for Audit

Executive Summary

Food and Nutrition Service, Accountability and Oversight of the National School Lunch Program (Audit Report No. 27010-5-Te)

Results in Brief

This report presents the results of our audit of the National School Lunch and Breakfast Programs as administered by the Food and Nutrition Service Regional Office, the Texas Education Agency, and the Texas Department of Human Services (TDHS). The purposes of the school lunch and breakfast programs are to provide nutritionally balanced, low-cost or free meals to schoolchildren that will encourage better eating habits. The objectives of our audit were to evaluate Food and Nutrition Service's and the State agency's controls over the administration of the National School Lunch and Breakfast Programs. We found deficiencies at TDHS with the administrative controls over the single audit tracking system and the administrative review process.

In fiscal year 2001, TDHS did not properly maintain the single audit tracking system to account for the \$16 million of school lunch and breakfast funding disbursed to their 231 subrecipients, or school food authorities. The responsible official did not consistently enter information into the single audit tracking system, although all school food authorities submitted the proper documentation. As a result, the tracking system did not account for \$11.5 million disbursed to 187 of 231 subrecipients.

In addition, TDHS' administrative review process did not adequately identify internal control weaknesses within the school food authorities. This was because the officials did not use all available information to conduct administrative reviews nor did supervisory personnel provide the officials with adequate oversight. As a result, there were potentially 100¹ school food authorities not following program regulations and not properly safeguarding program funds.

We found no material deficiencies at the Food and Nutrition Service's (FNS) Regional Office, TDHS, or the Texas Education Agency that would warrant further audit coverage or corrective action at this time.

Recommendations In Brief

We recommend that TDHS determine and document the amount of all Federal funding that participating institutions have received to enable them to confirm which institutions are required to obtain a single audit² for the current and past years. Furthermore, TDHS needs to comply with

¹ There were 40 school food authorities from the Austin Area Office and 60 from the San Antonio Area Office.

² Single audit is an audit that includes the entity's financial statements and Federal awards.

previously established corrective action plans specified by the Texas State Auditor's Office. Lastly, TDHS must provide adequate training to employees performing administrative reviews and develop a process to perform analyses of such reviews at each area office.

Agency Response

In a letter dated December 30, 2003, FNS generally agreed with the findings and recommendations in our report. (See exhibit A.) However, FNS did not agree with Recommendations Nos. 5 and 6. Specifically, FNS stated that TDHS should not be required to develop additional monitoring programs for subrecipients just because they are State agencies subject to the Statewide audit. Further, FNS stated that the State audit agency can confirm on a one-time basis that the four State agencies, or all State agencies, are covered by the Statewide audit. To require individual State-agency confirmation would appear to be unnecessary.

OIG Position

We need additional information to reach management decisions for all of the recommendations. The conditions needed to reach management decision are set forth in the Findings and Recommendations section of the report.

Abbreviations Used in This Report

CFR	Code of Federal Regulations
FNS	Food and Nutrition Service
FY	Fiscal Year
NSLP	National School Lunch Program
OIG	Office of Inspector General
OMB	Office of Management and Budget
SBP	School Breakfast Program
SFA	School Food Authority
TDHS	Texas Department of Human Services

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Background and Objectives

Background

On June 4, 1946, Congress passed the National School Lunch Act (42 U.S.C. 1751), now the Richard B. Russell National School Lunch Act, as amended December 29, 2001, authorizing Federal assistance to the States in the establishment, maintenance, and operation of school lunch programs. The Act established the National School Lunch Program (NSLP) to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities. The program provides Federal assistance to help public or nonprofit private schools of high school grade or under, as well as public or nonprofit private residential childcare institutions that serve nutritious lunches to children.

The Act, as amended, authorizes the payment of general and special cash assistance funds to States based upon the number and category of lunches served. Section 4 of the Act authorizes general cash assistance payments for all lunches served to children in accordance with the provisions of the NSLP, and additional special cash assistance for lunches served under the NSLP to children determined eligible for free or reduced-price lunches. The States are reimbursed at various rates per lunch, depending on whether the child was served a free, reduced-price, or full-price (paid) lunch. Eligibility of children for free or reduced-price lunches is based upon their family's household size and income, as listed in FNS' Income Eligibility Guidelines, which are reviewed annually.

The NSLP is promulgated primarily through Title 7, Code of Federal Regulations (CFR), part 210, National School Lunch Program, and part 220, School Breakfast Program (SBP). Other regulatory requirements include Title 7, CFR, part 245, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools; part 3016, Uniform Administrative Requirements for Grants and Cooperative Agreements; and part 3019, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, establishing uniform administrative requirements for Federal grants and agreements.

Through the FNS National Office, headquartered in Alexandria, Virginia, the seven regional offices administer the NSLP and provide technical assistance to the States. The FNS Regional Offices monitor the States in their region by conducting management evaluations; also, they directly administer the programs in some private schools. The regional offices also monitor and control the flow of Federal funds to the States through a review of reports which detail the financial expenditures of the States and the number of free, reduced-price, and paid meals served.

The NSLP is usually administered through a State's Department of Education that has the responsibility for administration of the NSLP. In the State of Texas, two agencies, the Texas Department of Agriculture and the TDHS, administer the program. The administration of the program was moved from the Texas Education Agency to the Texas Department of Agriculture in July 2003. The Texas Department of Agriculture administers charter and public schools, while TDHS administers the private schools and residential childcare institutions. This audit concentrated on the FNS Regional Office, Texas Education Agency, and TDHS' administration of the NSLP.

The State agency is required to enter into a written agreement with FNS for the administration of the NSLP Statewide, and written agreements with the school food authorities (SFA) for local administration. The State agency is also required to perform administrative reviews covering both critical and general areas that include, but are not limited to, meal claims, eligibility determinations, and use of program funds. A coordinated review effort and a review of compliance with nutrition standards are conducted at each SFA. FNS Regional Office personnel may participate in these reviews. SFAs are responsible for the administration of the program at the local school district level. Individual schools are responsible for the onsite operation of the NSLP, including the implementation of adequate meal accountability systems and the review and approval of student applications for free and reduced-price meals. The State agency and the SFAs are responsible for reviewing the monthly meal claims to ensure that the number of meals claimed is limited to the number of approved students in each category, adjusted to reflect the average daily attendance.

The fiscal year (FY) 2002 funding for the NSLP was \$5.8 billion for meal reimbursements of approximately 6 billion lunches. The FY 2003 estimated funding is \$6 billion in meal reimbursements. For the school year 2001/2002, the State of Texas had an NSLP enrollment of 4.2 million and reimbursements of \$800 million.

Objectives

The objectives of our audit were to evaluate FNS' and the State agency's controls over the administration of the NSLP and SBP. We evaluated FNS' policies and procedures over meal accountability, the student eligibility process, and agency oversight of program operations. Specifically, we reviewed the procedures for the (1) accuracy of collections and accounting for reimbursed meals, (2) accounting and use of program funds relating to the SFA's procurement of goods and services, and (3) overall student eligibility process, with a focus on schools that elected to implement alternate eligibility determinations.

Findings and Recommendations

Section 1. TDHS Did Not Provide Adequate Oversight of SFA

TDHS has two types of nonprofit institutions, private schools and residential childcare institutions. In FY 2001, TDHS disbursed approximately \$170 million in special nutrition funds to subrecipients. Of the \$170 million, \$16 million was disbursed for the school lunch and breakfast programs to 231 subrecipients, or SFAs that participated in the programs. To monitor the SFAs' activities, TDHS tracks the Federal funds and performs an administrative review once every 5 years for each SFA.

We found that TDHS did not track all relevant Federal financial assistance data for all 231 SFAs or provide adequate oversight during the administrative review process.

Finding 1

TDHS Did Not Ensure SFAs Were In Compliance With Single Audit Requirements

A TDHS official did not properly maintain the single audit tracking system to account for all Federal funding disbursed to the SFAs. The responsible official did not consistently enter information into the tracking system even though current single audit documentation for all SFAs was received. Generally, the official entered information from subrecipients that previously submitted audits, voluntarily submitted the audit, or met the monetary threshold in previous years. Therefore, TDHS could not reliably determine which subrecipients were required to be audited, and the tracking system did not account for \$11.5 million disbursed to 187 of 231 subrecipients.

TDHS implemented the tracking system to compile subrecipients' Federal funding to determine when a single audit is required. However, in multiple Statewide audits, the Texas State Auditor's Office found weaknesses in TDHS' internal control structure. The weaknesses were first identified in 1994.

In the 1995 Texas Statewide Single Audit, the State auditor found that the single audit tracking system did not accurately determine or record "audit due dates." It further stated that the inaccurate information in the tracking system resulted in delinquent audit reports that prevented TDHS from properly tracking subrecipients' Federal funding, and resulted in questioned costs.

In 1996, the State auditor concluded that the single audit tracking system was not capturing all relevant Federal financial assistance data. This was because the information on the Form 1569, Single Audit Identification Data, was not accurately entered into the system. The State Auditor's Office recommended TDHS correct the deficiencies in the tracking system by correctly entering data documented on the form 1569.

The State auditor found that corrective action had been taken in 1997 and has currently not disclosed any other deficiencies. However, during our review of TDHS' internal control structure, we found that it did not track or monitor all Federal funding distributed to the SFAs. Furthermore, the data that was tracked in the system was found to be incomplete and inaccurate. Thus, TDHS was unable to determine when a single audit was required.

Federal and State guidelines³ require non-Federal entities that either expend a minimum of \$300,000 in Federal awards or have a financial statement audit performed annually to have a single audit conducted for that year. Furthermore, Federal regulations⁴ require the pass-through entities,⁵ in this case TDHS, to continually monitor their subrecipients for compliance with single audit requirements.

To provide certification of single audit compliance, the SFA must submit a form 1569 every year when applying for the school lunch and breakfast programs. The form 1569 provides documentation of the source(s) and amount(s) of Federal funding the SFA expends other than from TDHS. However, if the SFA did not disclose any other Federal funding on the form, the responsible official presumed none had been received, rather than request additional information.

The data from the form 1569 is entered in the tracking system at one time. During the data entry process, the audit due date and notification letter dates are determined. According to Federal guidelines,⁶ audit due dates are to be the last day of the ninth month following SFAs' fiscal yearend, unless a longer period of time is agreed upon in advance. Notification letters are to be sent out twice before the audit due date. The first letter is to notify the SFA of when the audit is due and should be received no later than 3 months prior to the audit due date. The second letter is to notify the SFA that its contract will be terminated until the single audit is received. This letter should be received no later than 30 days prior to the audit due date.

³ The Office of Management and Budget (OMB) Circular A-133, subpart B, subsection .200(a), revised June 24, 1997; the Single Audit Act Amendment of 1996; and TDHS Audit Procedures.

⁴ Title 7, CFR, part 3052, section .230, revised as of January 1, 2000.

⁵ Pass-through entity is defined as a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

⁶ OMB Circular A-133, subpart C, subsection .320(a), revised June 24, 1997.

However, we found that TDHS had only entered single audit information for 44⁷ of the 231 SFAs; thus, the source of funding was not tracked for 187 SFAs, leaving over \$11.5 million of \$16 million not tracked.

Our analysis of the 44 SFAs that were entered in the single audit tracking system disclosed the following:

- 20 showed monetary amounts that deviated from the documentation on the form 1569;
- 10 submitted a form 1569 with an undeterminable amount of Federal funding;
- 12 had an alternate fiscal yearend when compared to the form 1569;
- 6 had incorrect audit due dates;
- 13 were issued notification letters on dates inconsistent with program regulation; and
- 5 did not have notification dates recorded, thus no audit notification letters were issued.

The responsible official stated that the SFAs' fiscal yearend dates were based on prior year information. Additionally, the official did not follow Federal or State guidelines resulting in the data entry of erroneous information.

Federal regulations⁸ require proper monitoring of the programs funds. TDHS is given the option to find procedures that best meet its monitoring needs. However, OMB expects pass-through agencies to consider various risk factors while developing the monitoring procedures, such as relative size and complexity of the Federal awards.

During FY 2001, TDHS disbursed, but did not track, over \$7 million of the school lunch and breakfast funds to four State agencies⁹ acting as SFAs. The four SFAs are continually included in the Texas Statewide Single Audit, meeting their compliance with single audit requirements. However, because of these SFAs' involvement in the Statewide audit, TDHS only monitors their program compliance during administrative reviews that are conducted once every 5 years. TDHS also did not consider various risk factors for additional oversight. As a result, over \$7 million of the \$11.5 million untracked school lunch and breakfast funds are repeatedly not physically audited. (See finding 2.)

⁷ Of the 44 SFAs, 4 were later exempted from submitting a single audit.

⁸ Title 7, CFR, part 3052, section .230, revised as of January 1, 2000.

⁹ Texas Youth Commission, Texas School for the Deaf, Texas School for the Blind and Visually Impaired, and the Texas Department of Mental Health and Mental Retardation.

Recommendation No. 1

Require TDHS to document the amount of Federal funding that participating institutions have received, determine which institutions are required to obtain a single audit, and properly monitor the \$11,555,787 in untracked school lunch and breakfast funds for FY 2001.

Agency Response. FNS concurs with the recommendation; however, FNS recommended that the dollar amount be reduced from over \$11.5 million to \$4.5 million based on the coverage of over \$7 million cited under the Statewide audit of the four State agencies operating special nutrition programs.

OIG Position. We cannot accept the FNS management decision. We disagree that the amount of untracked school lunch and breakfast funds be reduced from \$11,555,787 to \$4.5 million. Having funds included in a Statewide audit only fulfills the subrecipient's responsibility of having the single audit actually conducted. It does not exempt the State agency from its responsibilities of monitoring the funds they disbursed. We found no regulations or guidelines that would grant the pass-through entity, in this case the State agency, an exemption to not track a subrecipient's funds based on who conducted the audit.

According to the OMB response to the 1996 revision of Circular A-133, pass-through entities are held accountable for Federal awards administered by their subrecipients. Furthermore, Departmental regulation¹⁰ states that all agencies and staff offices are to improve the accountability and effectiveness of the United States Department of Agriculture's programs and operations through the use of sound systems of internal and management controls, and to ensure that programs are to be managed with integrity and that program operations comply with the applicable laws and regulations. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

¹⁰ Departmental Regulation 1110-2, dated February 23, 1999.

Recommendation No. 2

Require TDHS to determine if FY 2002 required audits had been performed and to provide the necessary followup.

Agency Response. FNS concurs with the recommendation.

OIG Position. We cannot accept the FNS management decision. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Recommendation No. 3

Require TDHS to ensure that all single audit documentation is entered into the single audit tracking system and that required audits, along with all necessary documentation and followups, are performed for FY 2003.

Agency Response. FNS concurs with the recommendation.

OIG Position. We cannot accept the FNS management decision. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Recommendation No. 4

Require TDHS to comply with previous Texas Statewide Single Audit corrective action plans by requesting followup documentation for incomplete, inaccurate, and/or variations in current-year documentation submitted by SFAs, including all Federal and special nutrition programs funding.

Agency Response. FNS concurs with the recommendation.

OIG Position. We cannot accept the FNS management decision. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Recommendation No. 5

Require FNS and TDHS to work together to develop other means of monitoring program funds, including limited scope audits, and consider various risk factors for disbursements made to the four subrecipient State agencies.

Agency Response. FNS did not concur with this recommendation. FNS stated that TDHS should not be required to develop additional monitoring programs for subrecipients just because they are State agencies subject to the Statewide audit. The regulations¹¹ do not appear to provide for limited scope audits where there is a single audit. Further, TDHS should not be required to conduct monitoring or audits not required by the regulation or which are not required by any other State agency.

OIG Position. We cannot accept the FNS management decision. We found that because of these four subrecipient State agencies' involvement in the Statewide audit, TDHS only monitors its program compliance during administrative reviews that are conducted once every 5 years. However, we found that TDHS' administrative review process does not adequately identify weaknesses for not only the State agencies but for all of their SFAs. (See finding 2.) According to FNS guidance¹², pass-through entities are to consider various risk factors in developing subrecipient monitoring procedures, such as relative size and complexity of the Federal awards administered by the subrecipient, prior experience with each subrecipient, and the cost effectiveness of various monitoring procedures. Further, pass-through entities shall monitor the activities of subrecipients, as necessary, to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and provisions of contracts or grant agreements and that performance goals are achieved.

TDHS has not considered the various risk factors to develop proper monitoring procedures. The four State agencies received almost half of the total school lunch and breakfast outlays that TDHS disbursed in 2001 to its subrecipients. We question the extent to which the Texas Statewide Single Audit addresses these specific programs and agencies. FNS guidance¹² states a State agency must marshal its entire arsenal of monitoring resources and use them in ways that provide the most efficient, effective oversight of its subgrantees. The guidance defines monitoring resources to include limited scope audits, onsite reviews, and subgrantee data analysis.

We gave limited scope audits as an example of an alternate monitoring resource for the four State agencies. Federal regulations¹³ do provide for

¹¹ Title 7, CFR, part 3052, section .230, revised as of January 1, 2000.

¹² Second Edition of Questions and Answers on OMB Circular A-133/Title 7, CFR, part 3052, dated March 1, 2001.

¹³ Title 7, CFR, part 3052, section .230, revised as of January 1, 2000.

limited scope audits where there is a single audit, but do not provide for pass-through entities charging Federal awards for the cost of limited scope audits where there is a single audit.

We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Recommendation No. 6

Require TDHS to obtain written documentation of single audit compliance from the four State agencies that participate in the school lunch and breakfast programs. Consideration should be given to modifying the form 1569 to include certification of the agencies' participation in the Texas Statewide Single Audit and/or obtain a letter from a State agency official declaring the agencies' compliance with all single audit requirements.

Agency Response. FNS did not concur with this recommendation. FNS stated that the State audit agency can confirm on a one-time basis that the four State agencies, or all State agencies, are covered by the Statewide audit. To require individual State-agency confirmation would appear to be unnecessary.

OIG Position. We cannot accept the FNS management decision. We understand that the State audit agency can confirm on a one-time basis that the four State agencies, or all State agencies, are covered by the Statewide audit. However, according to Federal regulations,¹⁴ auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package when the schedule of findings and questioned costs disclosed (1) audit findings relating to Federal awards that the pass-through entity provided or (2) the summary schedule of prior audit findings reported the status of any audit finding relating to Federal awards that the pass-through entity provided.

Also, instead of submitting the reporting package to a pass-through entity, when a subrecipient is not required to submit a reporting package to a pass-through entity, the subrecipient shall provide written notification to the pass-through entity. The written notification should indicate that (1) an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and number of the Federal award(s) provided by the pass-through entity), (2) the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided, and (3) the summary schedule of prior findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. Further, a subrecipient may submit a copy of the reporting package to the

¹⁴ Title 7, CFR, part 3052, section 320 (c)-(e), revised as of January 1, 2000.

pass-through entity to comply with this notification requirement. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Finding 2**Administrative Reviews Provided Inadequate Oversight**

TDHS' administrative review process does not adequately identify weaknesses within the SFA. This is because TDHS officials did not use all available information to conduct administrative reviews (see listings on pages 11 and 12) nor did supervisory personnel provide the officials with adequate oversight. As a result, there were potentially 100¹⁵ SFAs not following program regulations and not properly safeguarding program funds.

TDHS procedures¹⁶ require the eight area offices to conduct administrative reviews of SFAs participating in the school lunch and breakfast programs at least once every 5 years. Administrative reviews evaluate both critical and general areas that include, but are not limited to, meal claims, eligibility determinations, and use of program funds. Each area office provides their contract managers with administrative review packets. The review packets contain specific forms for each required area of review, critical and general. To properly perform the administrative review, contract managers are to complete the review packets by examining the SFA's records and interviewing staff to determine if they are following program regulations.

The TDHS had reviewed or scheduled an administrative review of all SFAs under each of the eight area offices during the 5-year review cycle, July 1998 to June 2003. We reviewed two of the eight area offices that conducted administrative reviews, the Austin and San Antonio Area Offices.

During the 5-year review cycle, the San Antonio Area Office conducted 76 administrative reviews and mandatory followups on 60 SFAs. The Austin Area Office conducted 58 administrative reviews and mandatory followups on 40 SFAs.

At the Austin Area Office, we reviewed a sample of 19 administrative reviews and mandatory followups from FYs 2000 to 2003. The Austin Area Program Manager stated that after the administrative reviews were completed by the contract manager, findings letters were written. The area program manager would then compare the findings letters to the administrative review forms, making sure all findings had been documented. Even with this basic review by the Austin Area Program Manager, we found problems with three administrative reviews' findings letters, including incorrect contract numbers and incorrect or missing dates.

¹⁵ There were 40 SFAs from the Austin Area Office and 60 SFAs from the San Antonio Area Office.

¹⁶ TDHS NSLP and SBP Handbook, chapter 5, Administrative Reviews and Audits, Administrative Review, dated June 1, 2002.

At the San Antonio Area Office, we reviewed a sample of 16 administrative reviews and mandatory followups from FYs 2000 to 2003. The San Antonio Area Program Manager only reviewed the findings letters that were sent to the SFA after the administrative review had been completed. However, temporary summer employees conducted a quality assurance review annually on a selected sample of administrative reviews performed. The temporary employees used a checklist to ensure the completeness of necessary administrative review forms and that performance standard thresholds had been properly met. Despite the basic review performed by the San Antonio Area Program Manager, we found problems with six of the administrative review forms and findings letters, including missing or incorrect dates and mislabeled information.

We reviewed two SFAs from the San Antonio Area Office, which were chosen based on problems documented by the TDHS during the administrative review process and concerns raised regarding a food service management company. Our review found numerous weaknesses that were inconsistent with the State's results.

We found that the first SFA¹⁷

- had no procurement procedures;
- improperly awarded the food management contract to the same food service provider, 1998 through 2003; and
- did not have internal controls in place to ensure the accuracy and eligibility of meals claimed for reimbursement or to verify that the reimbursement claims were prepared accurately.

The administrative review for the first SFA was performed in October 2001 and a followup was not required. The administrative review did not take issue with procurement procedures, food service management company contract, or eligibility of meals claimed. TDHS requested and accepted the SFA's internal control procedures to ensure accurate meal counts.

¹⁷ OIG Audit Report No. 27010-9-Te, issued October 2003.

We found that the second SFA¹⁸

- did not have adequate internal controls to ensure the accuracy of the reimbursement claims;
- did not have accurate support for the number of meals claimed;
- had no second-party reviews of the reimbursement claims to detect such errors;
- did not comply with the competitive procurement regulations; and
- had no separation of duties in the daily cafeteria operations that included collecting and recording the lunch money received, depositing the collections, conducting point-of-service meal counts, consolidating lunch counts for the reimbursement claims, plus writing and signing all checks including their own payroll check.

The administrative review for the second SFA was conducted in December 1999, followed by a periodic review in January 2001. In response to the administrative review, the SFA was to implement internal controls to ensure that the meal counts for the reimbursement claims were accurate. The periodic review showed that internal controls were implemented and functioning properly.

We concluded that TDHS' administrative review process was not adequately conducted or supervised to reveal weaknesses. As a result, there is risk for potential mismanagement of the program and its funds by the SFAs.

Recommendation No. 7

Require TDHS to provide all employees that are involved in the administrative review process training on how to properly perform the administrative reviews, including how to thoroughly complete each form.

Agency Response. FNS concurs with the recommendation. FNS, at the request of TDHS, has conducted training for TDHS staff in the administrative review process several times in the past years.

OIG Position. We cannot accept the FNS management decision. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

¹⁸ OIG Audit Report No. 27010-8-Te, issued September 2003.

Recommendation No. 8

Require TDHS, by school year 2004/2005, to develop a process that will require officials with substantive program knowledge to perform detailed analyses of administrative reviews at each area office, including examination of written documentation of interviews, and complete explanations of responses on each administrative review form.

Agency Response. FNS concurs with the recommendation. FNS added that the TDHS Area Offices administer a large number of special nutrition programs of which the NSLP and SBP are a small part.

OIG Response. We cannot accept the FNS management decision. We can reach management decision when FNS provides us with documentation showing the specific corrective action to be taken, and the timeframe within which the corrective action will be completed.

Scope and Methodology

Audit work was performed at the FNS Regional Office, the Texas Education Agency, the TDHS State Office in Austin, Texas, and the TDHS Area Offices in Austin and San Antonio, Texas. The two area offices were selected based on proximity to TDHS' State Office and issues raised regarding a food service management company that contracted with an SFA from one of the area offices. Our fieldwork was performed during the period of October 2002 through July 2003. The period covered by the audit included NSLP and SBP operations for the 2002/2003 school year. We expanded our audit scope to include FY 2001 because the deadlines for FY 2002 single audits had not yet been reached. Audit reports were reviewed to document prior single audit findings. For the administrative review analysis, OIG expanded the universe to include the entire 5-year cycle, FYs 1998 through 2002.

The audit objectives were accomplished through

1. reviews of FNS' regulations, policies, and procedures relating to the NSLP and discussions with regional personnel regarding any concerns they have with program operations;
2. auditor observations of the State agency's records;
3. interviews with State agency administrative officials;
4. obtaining FYs 2001 through 2002 NSLP and SBP funding totals from State agencies;
5. obtaining NSLP and SBP policies and regulations;
6. obtaining single audit regulations, OMB Circular A-133;
7. reviewing prior year audit reports regarding the State and their audit findings;
8. examining various SFA single audit files for 2001;
9. conducting analysis of records, forms 1569, and single audit tracking system printouts provided by the State;
10. reviewing samples of SFA administrative review files for FYs 2000 to 2003 at the Austin and San Antonio Area Offices; and
11. interviews with SFA officials about administrative reviews.

The audit was conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States. Accordingly, the audit included such tests of program and accounting records as considered necessary to meet the audit objectives.

Exhibit A – Agency Response

Exhibit A – Page 1 of 3



United States Department of Agriculture
Food and Nutrition Service

Southwest Region

DEC 30 2003

Reply to
Attn of: SWSN:220

Subject: Audit 27010-5-Te, Accountability and Oversight of the National School Lunch Program in Texas

To:
Timothy R. Milliken
Regional Inspector General for Audit

This is to provide a response to the official draft of the above referenced audit. Once the final audit is issued, follow-up will be made with the Texas Department of Human Services to provide specific corrective action and projected completion dates. We had understood from the telephone exit conference on December 1, 2003, that there was agreement on the substantive areas of non-concurrence stated below.

Our comments are as follows:

1. Page i. - In the second paragraph recommend that the last sentence be revised to read: "As a result, the tracking system did not account for \$4.5 million disbursed to 187 of 231 sub-recipients." This is based on the coverage of over \$7 million of the \$11.5 million cited under the statewide audit of four state agencies operating Special Nutrition Programs.

Additionally, we recommend that the second sentence of the third paragraph be revised to read: "This was because there did not appear to be adequate supervisory oversight of the substantive aspects of the Coordinated Review Effort (CRE). Additionally, State agencies should be encouraged to review those additional regulatory items not required by the CRE such as procurement, Food Service Management Companies, food safety inspections, non profit school foods service, use of donated foods, competitive foods, allowable costs, etc., either during the CRE review or separately." Under our current regulations the State agency may review these program areas and ensure compliance through means other than the CRE review.

The CRE regulation at 7 CFR 210.18(h) only requires under the General Areas that the following topics be reviewed: free and reduced price process, meal patterns, civil rights, monitoring responsibilities, and reporting and recordkeeping. However, 7 CFR 210.19(a) states that each State agency shall provide an adequate number of consultative, technical and managerial personnel to administer programs and monitor performance in complying with all Program requirements. Similarly, 7 CFR 210.19(a)(4) states that each State agency shall require that school food authorities comply with the applicable provisions of this part. The State agency shall ensure compliance through audits, administrative reviews, technical assistance, training guidance materials or by other means.

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In the fourth paragraph we feel the wording is incorrect when it states: “We found no other material weakness....” The audit found no material weakness at either the Food and Nutrition Service Regional Office or the Texas Education agency.

2. Finding 1 – We do not agree with the narrative in the last three paragraphs on page 5. As discussed in our telephone exit conference and as referenced in the audit, four other state agencies operating Special Nutrition Programs are covered by the statewide audit. While we might question the extent to which statewide, or any other audits, address specific program and regulatory requirements, to require TDHS to conduct additional oversight of programs under statewide audits would require TDHS to conduct reviews above and beyond what the regulations require or that any other state agency in the country is required to do. Additionally, it should be noted that additional reviews are made through the School Meal Initiative (SMI) reviews which are conducted in each school food authority every five years.

3. Finding 1, Recommendation 1 – We concur with the finding and recommendation, however, we recommend that the dollar amount be reduced by \$7 million to \$4.5 million as referenced in our comment in item 1 above.

4. Finding 1, Recommendation 2 - We concur with this recommendation.

5. Finding 1, Recommendation 3 - We concur with this recommendation.

6. Finding 1, Recommendation 4 - We concur with this recommendation.

7. Finding 1, Recommendation 5 - We do not concur with this recommendation. As discussed in Item 2 above, TDHS should not be required to develop additional monitoring programs for sub-recipients just because they are State agencies subject to the statewide audit. 7 CFR 3052.230 does not appear to provide for limited scope audits where there is a single audit. TDHS should not be required to conduct monitoring or audits not required by the regulation or which are not required of any other State agency.

We would also like to point out that this recommendation would require action on the national level since many State agencies take agreements with both Federal and other State agencies to serve as sub-recipients. If this recommendation stays in the final audit, we suggest the audit be addressed to the Administrator of the Food and Nutrition Service.


8. Finding 1, Recommendation 6 - We do not concur with this recommendation. The state audit agency can confirm on a one time basis that the four state agencies, or all state agencies, are covered by the statewide audit. To require individual state agency confirmation would appear to be unnecessary.

9. Finding 2, Recommendation 7 - We concur with this recommendation, however, would like to note that this office, at the request of TDHS, has conducted training for TDHS staff in the administrative review/CRE review process several times in the past few years.

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10. Finding 2, Recommendation 8 – We concur with what we understand to be the intent of this recommendation, however, we would recommend for clarity that the last sentence be removed and the first sentence revised to read along the following lines: “Require TDHS, by school year 2004-2005, to develop a process that will ensure that the TDHS Area Office managers, or a designated staff person, conduct a substantive review of the CRE reviews to ensure compliance.” It should also be mentioned that the TDHS Area Offices administer a large number of Special Nutrition Programs of which the National School Lunch and School Breakfast Programs are a small part.

We appreciate your assistance in resolving this audit. Please call me at 214-290-9814 if there are any questions.


for RONALD J. RHODES
Regional Director
Special Nutrition Programs

