

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL

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Before the

Subcommittee on Early Childhood,
Elementary, and Secondary Education

Committee on Education and the Workforce

U.S. House of Representatives

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Good morning, Chairman Rokita, Ranking Member Fudge, and Members of the Subcommittee.

I thank you for inviting me to testify before you today to discuss the Office of Inspector General's (OIG) oversight of the Department of Agriculture's (USDA) programs providing nutrition assistance to children. Administered by the Food and Nutrition Service (FNS), the National School Lunch Program (NSLP), the School Breakfast Program (SBP), and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) have each been subjects of recent OIG audit and investigative work. Overall, our audits have highlighted a number of areas for improving program operations and effectiveness, while our investigations have focused on program fraud.

As you know, OIG's mission is to promote the efficiency and effectiveness of USDA programs by performing audits to reduce fraud, waste, and abuse. We perform audits designed to ascertain if a program is functioning as intended, if program payments are reaching those they are intended to reach, and if funds are achieving the purpose they were intended to accomplish. When we find problems, we make recommendations we believe will help the agency better accomplish its mission.

As the official responsible for these audits, I will outline today the results of OIG's work concerning these programs, including our work on improper payments, participant eligibility in NSLP, food service management company activities, and WIC controls. I will also briefly present highlights of the work conducted by my colleagues in our Office of Investigations.

NSLP and SBP

Serving a significant public need, the two programs operate in over 100,000 and 89,000 public and nonprofit private schools and residential child care institutions, respectively. NSLP and SBP

provided nutritionally balanced, low-cost or free meals to approximately 31 million children each school day in 2014. Together, the two programs cost a total of \$16.3 billion in fiscal year (FY) 2014.

NSLP has been an area of concern for some time. On the one hand, the program serves the vital interest of ensuring that schoolchildren, often from the most vulnerable homes, attend their classes hunger-free and ready to learn; on the other, historically, NSLP has experienced high rates of improper payments, particularly regarding participant eligibility—viz., whether or not households truly qualify for free or reduced price lunches, based on their income.

Improper Payments

In FY 2009, NSLP improper payments cost taxpayers an estimated \$1.453 billion (16.28 percent of total NSLP outlays). In response to the Improper Payments Elimination and Recovery Act of 2010 (IPERA),¹ USDA identified NSLP and SBP as high-risk programs, and therefore was required to measure and report improper payment estimates for those two programs each year. In FY 2013, these two programs continued to experience high rates of improper payments. That year, USDA reported improper payment estimates of greater than 10 percent—approximately 25 percent for SBP and 16 percent for NSLP.

FNS proposed corrective action to improve these rates, and OIG concluded that NSLP's corrective action plans were appropriate, reasonable, and in compliance with Office of Management and Budget (OMB) guidance.² As part of our review, however, OIG statisticians reviewed NSLP's econometric models, which is the methodology FNS used to report NSLP's

¹ Pub. L. No. 111-204, 124 Stat. 2224.

² Audit Report 50024-2-FM, *Calendar Year 2010 Executive Order 13520, Reducing Improper Payments, Accountable Official Report Review*, March 2011.

annual improper payment estimates.³ They concluded that the estimates do not include an assessment of precision for the interim estimates of annual improper payment rates. Without having precision associated with NSLP improper payment estimates, we cannot determine whether the estimates are likely to be close to the actual percentages of improper payments; therefore, we do not have any assurance of the accuracy of the estimates.

We also noted that FNS' methodology to report NSLP's annual improper payment estimates was outdated and would not include an assessment of precision for future years; therefore, we did not believe FNS estimates projected from this study were reliable.

Although FNS officials affirm that new tools and strategies included in the Healthy, Hunger-Free Kids Act of 2010⁴ will help reduce errors in SBP and NSLP, they maintain that it would take time to reduce the programs' error rate below 10 percent. In FY 2013 and 2014, FNS reported that the error rates for these two programs remained above 10 percent. OIG also found that FNS' SBP, NSLP, and WIC missed their reduction targets for these programs.⁵ We concluded that SBP and NSLP were not compliant with IPFA for a third consecutive year.⁶ As required by the law,⁷ USDA must submit to Congress proposed statutory changes necessary to bring these two programs into compliance.

³ November 2007 NSLP/SBP Access, Participation, Eligibility, and Certification (APEC) study. FNS released an update to this study—APEC II—in May 2015. OIG has not reviewed the findings of APEC II.

⁴ Pub. L. No. 111-296, 124 Stat. 3183.

⁵ The reductions targets for FNS' SBP, NSLP, and WIC were 24.36 percent, 15.10 percent, and 4 percent, respectively.

⁶ Audit Report 50024-0005-11, *U.S. Department of Agriculture Improper Payments Elimination and Recovery Act of 2010 Compliance Review for Fiscal Year 2013*, April 2014.

⁷ Pub. L. No. 111-204, 124 Stat. 2234.

Self-Reporting of Eligibility Requirements

In our recent work, we have evaluated the methods that FNS used to lower its error rates for both NSLP and SBP.⁸ Specifically, we determined if FNS, State agencies, and school food authorities (SFA) had adequate controls to ensure children approved for free and reduced-price meals met eligibility requirements. Children from families with incomes at or below 130 percent of the poverty level are eligible for free meals. Those with incomes between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals.⁹

However, NSLP and SBP are self-reporting programs. Unlike other FNS programs such as the Supplemental Nutrition Assistance Program (SNAP) and WIC, where proof of income is required, FNS does not require households to submit income documentation with NSLP and SBP applications. Rather, households are only required to submit a completed application to SFAs; regulations allow eligibility to be approved based on the self-reported, unsupported information provided on the application. Statute requires SFAs to annually verify children's eligibility, sampling 3 percent of household applications approved for the school year.¹⁰

Those verifications indicate that the rate of misreported income may be high. During school year 2012-2013, as a result of the annual verification process, SFAs reduced or eliminated benefits for 107,974 of the 199,464 sampled households nationwide (about 54 percent) because the income claimed on the applications was unsupported or excessive. As a result, we estimated that FNS may have spent nearly \$12.5 million on lunches for students who later had their benefits reduced or denied after being selected for verification. Further, a

⁸ Audit Report 27601-0001-41, *FNS—National School Lunch and School Breakfast Programs*, May 2015.

⁹ 42 U.S.C. § 1758(b)(1)(A).

¹⁰ 42 U.S.C. § 1758(b)(3)(D)(iii)(I).

large majority of households determined to be eligible for NSLP and SBP based on household applications—at least 97 percent—are *not* selected for annual verification and may receive benefits solely based on self-reported income.

SFA employees whose children are enrolled in NSLP and SBP are an important potential indicator of noncompliance since SFAs have access to their own employees' salary information. Investigations by other agencies have found instances of program abuse. For example, in 2012, the Chicago Board of Education's Office of Inspector General reported 21 cases of principals and assistant principals who were found culpable of falsifying information on their applications. For example, the investigation found that an elementary school principal and his wife, a high school assistant principal, asked the principal's mother to submit an application for their children because their annual income together exceeded \$230,000.

Although an adult household member must certify the NSLP application is accurate, there are almost no consequences when a household misrepresents its income to receive free or reduced meals. FNS stated that households who misreport income information on the applications are removed from the programs for that year, but, typically, there are no penalties imposed. Applicants who misreported information on previous applications are able to reapply for the programs the following school year and are processed without any additional verification, unless selected as part of the required sample or "verified for cause" (see below).

OIG maintains that many of the problems surrounding these programs could be corrected by requiring families to submit documentation of household income at the time they submit

applications. We note that the Secretary has the authority to determine what constitutes appropriate “documentation” of household income.¹¹ However, FNS officials told OIG that FNS cannot require additional documentation, other than an application, unless Congress amends the program. FNS officials stated this definition has been used for at least 20 years, and any departure from it would be a significant change requiring legislation. FNS officials acknowledged that, technically, FNS could propose changes to the regulations, but since it is a contentious issue, they believe that any change regarding the definition of documentation needs to have support from Congress.

FNS stressed, in its response to our report, that it would continue its efforts to improve controls over NSLP and SBP without seeking the changes in regulations that would be necessary to require proof of income when participants applied for the program. Agency officials stated that they “will continue the[ir] efforts of increasing direct certification and [the] Community Eligibility Provision [...] both successful strategies in improving Program Integrity and reducing erroneous payments.”¹² OIG accepted this position, although we continue to believe that requiring proof of income at the time of application, as FNS does for other food benefit programs, is the shortest path to reducing the high rate of error in NSLP and SBP. We do not believe that requiring this information would constitute a significant administrative burden.

¹¹ 42 U.S.C. § 1758(d)(2).

¹² Direct certification uses information from certain means-tested assistance programs to automatically certify students for free meals. The Community Eligibility Provision allows high-poverty schools and districts to provide free meals to all students without needing to collect applications, certify individual students, or manage student payment accounts.

Verification for cause

In addition, SFAs are required to verify any questionable application, a process also referred to as “verification for cause.” “Verification for cause” is an important control for reducing improper payments in NSLP and SBP. For example, after an SFA in Florida verified questionable applications in school year 2012-2013, 72 of 101 students (71 percent) were denied benefits or were recertified from free to reduced-price meals. Verification of questionable applications by a California SFA resulted in benefit reductions for 228 of 240 students (95 percent). However, for most of our sampled SFAs, this control was likely underused.

Our recent work found that, during school year 2012-2013, 44 of the 56 SFAs we reviewed did not question any applications, even though we later identified at least 42 potentially questionable applications based on FNS’ criteria. This occurred because there were insufficient criteria for determining what constituted a questionable application and SFAs were allowed to choose whether to verify an application for cause on a case-by-case basis. As a result, SFAs interpreted the “verification for cause” requirement differently, subjecting both NSLP and SBP to potential increased improper payments.

Another OIG review of food service management companies found that FNS could do more to ensure that SFAs received the full benefits of purchase rebates and USDA-donated foods.¹³ Of the 18 SFAs we reviewed, we identified significant issues at 11 SFAs, which did not have sufficient controls in place to monitor food contracts and school food service operations. FNS stated that it did not require training on how to manage these contracts because it believed that States and SFAs were in the best position to determine what kind of oversight steps they should

¹³ Audit Report 27601-0001-23, *National School Lunch Program—Food Service Management Company Contracts*, January 2013.

perform. We questioned almost \$1.7 million in unallowable food management company charges and in USDA-donated foods that could not be accounted for.

Overall, the challenges NSLP and SBP have faced in reducing improper payments are ongoing. In 2013, FNS missed its reduction targets by about 0.59 percent and 0.90 percent, respectively. FNS officials stated that they believed that their corrective actions noted in the agency's action plan would reduce payment errors in these programs, and that missing its targets by less than one percent was reasonable and within the confidence interval calculated for its sampling methods.

Because NSLP has not complied with IPFA for 3 consecutive years, USDA is required by law to submit to Congress reauthorization proposals or proposed statutory changes necessary to bring high-risk programs into compliance.¹⁴

WIC

In recent work pertaining to WIC, OIG found that, though FNS has worked with State agencies to reduce food costs, FNS could achieve additional cost savings.¹⁵ FNS regards its management evaluations (ME) as WIC's main oversight tool, but the evaluations themselves, as well as the ME process, have several weaknesses. For example, we found that MEs did not always identify significant issues that may impact a State agency's food costs, and when FNS did identify deficiencies at State agencies, it did not always ensure that those agencies took appropriate and timely corrective actions. We identified over \$19.7 million in savings that could be realized by improving the ME process. Finally, although FNS is aware of policies that various State agencies have implemented to reduce their food costs, it has not evaluated those policies for

¹⁴ Pub. L. No. 111-204, 124 Stat. 2234.

¹⁵ Audit Report 27004-0001-22, *State Agencies' Food Costs for the Food and Nutrition Service's Special Supplemental Nutrition Program for Women, Infants, and Children*, September 2014.

program-wide implementation. Not evaluating these policies and their implications has led to missed cost saving opportunities. We recommended that FNS develop a national strategy to reduce WIC food costs, including correcting issues identified in the States reviewed and ensuring broader implementation of policies to lower average food costs.

Another audit of FNS' controls over vendor management and participant eligibility in WIC also found problems with FNS' MEs.¹⁶ In this instance, we found that these evaluations did not identify and correct significant issues in the vendor management processes at two State agencies operating WIC. These agencies lacked sufficient controls to track vendor violations for 42 vendors (2 in Illinois and 40 in Florida), and ensure timely and appropriate sanctions. As a result, these vendors were not disqualified, as required, and could redeem an estimated \$6.6 million in WIC benefits during their required periods of disqualification.

Overall, our audit work has shown that FNS has many opportunities to improve how it oversees NSLP, SBP, and WIC. In some cases, it needs to strengthen its own controls directly. In other cases, it needs to improve how it communicates requirements to local authorities that operate the program.

Investigations into Program Fraud

Like our audits, OIG criminal investigations indicate the need to improve oversight of food nutrition programs for children, though our investigations focus more on instances of fraud in these programs. In FY 2014 through May 12, 2015, investigations involving WIC, NSLP and the Child and Adult Care Food Program resulted in 93 convictions and \$79.2 million in monetary

¹⁶ Audit Report 27601-0038-Ch, *Vendor Management in the Food and Nutrition Service's Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)*, March 2013.

results. The majority of the convictions and monetary results stem from a significant WIC investigation in Georgia. This investigation determined that a criminal ring opened multiple stores to defraud WIC, depositing over \$19 million in WIC vouchers into their bank accounts. This ring canvassed neighborhoods for WIC recipients, and then bought their benefits for pennies on the dollar.

Our investigative work in NSLP recently led to a New Jersey public school district agreeing to credit NSLP \$272,810 as well as pay \$49,500 in civil penalties. Between 2008 and 2014, the school's board of education had the district's food service employees cater elaborate events with the costs for food and service being absorbed by NSLP funds. Our investigation disclosed that, over a six year period, the district failed to collect, reimburse, or apply \$182,243 to its lunch program for catering services that were provided to its Board of Directors and \$90,567 for catering services provided to various schools, principals, and administrators within the district for other special functions.

This concludes my written statement. I want to again thank the Chair, the Ranking Member, and Members of the Subcommittee for the opportunity to testify today. I welcome any questions you may have.