



U.S. Department of Agriculture



Office of Inspector General
Southeast Region

Audit Report

Food and Nutrition Service Vendor Sanction Policies

Report No. 27002-1-AT
July 2004



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Southeast Region - Audit
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DATE: July 15, 2004

REPLY TO
ATTN OF: 27002-1-At

SUBJECT: Food and Nutrition Service Vendor Sanction Policies

TO: Crayton J. Lankford
Acting Regional Administrator
Food and Nutrition Service, Southeast Region

This report presents the results of the subject audit. Your June 9, 2004, response to the draft report is included as exhibit D with excerpts and the Office of Inspector General's (OIG) position incorporated into the relevant sections of the report.

We agree with your management decisions for six of the report's seven recommendations (Nos. 1, 2, 3, 4, 5, and 6.) Management decision has not been reached for Recommendation No. 7. To achieve management decision on it, we need additional action as outlined in the OIG Position section of the report. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days describing the corrective action taken or planned and the timeframe for implementing the corrective action on the recommendation.

Please note that the regulation requires a management decision to be reached on all findings and recommendations within a maximum of 6 months from report issuance, and final action to be taken within 1 year of each management decision. Correspondence concerning final actions should be addressed to the Office of the Chief Financial Officer.

/s/
RAYMOND G. POLAND
Regional Inspector General

Executive Summary

Food and Nutrition Service Vendor Sanction Policies (Audit Report No. 27002-1-AT)

Results in Brief

This report presents the results of our review of the Food and Nutrition Service's (FNS) Vendor Sanction Policies. The overall objective was to evaluate FNS' controls to ensure that retailers/vendors who are disqualified from either the Food Stamp Program (FSP), or the Special Supplemental Nutrition Program for Women, Infants, and Children's Program (WIC) receive a reciprocal disqualification. FNS' rules require that when a retailer/vendor is disqualified from one of its programs (FSP/WIC), the retailer/vendor will be removed from the other program. Further, the reciprocal disqualification shall be for the same length of time.

To assess whether reciprocal disqualifications were being imposed properly in the Southeast Region, we reviewed activities of the two States with the largest caseloads (Florida and Georgia). For the period October 1, 2000, through July 31, 2003, FNS disqualified 459 retailers from the Florida and Georgia FSP's and the State agencies (SA) administering the WIC Program disqualified 94 vendors from that program. The retailers/vendors were disqualified for violations that included trafficking¹ in FSP/WIC benefits, selling ineligible items (i.e., tobacco products) in exchange for the benefits, or overcharging for items.

Of the 459 retailers disqualified from the FSP, 46 retailers also participated in the WIC Program. We found that 8 of the 46 retailers (17.4 percent) that FNS disqualified for violating FSP regulations were not referred to the respective WIC SA for a reciprocal disqualification. The FNS Field Offices (FO) did not have sufficient procedures to verify that retailers/vendors disqualified from the FSP were referred and removed from the WIC Program. As a result, the eight disqualified FSP retailers continued to participate in the WIC Program. We estimate that they could potentially redeem \$903,732 in WIC benefits during the periods that they should have been disqualified. (See exhibit B.)

We also found that the Georgia FNS FO improperly granted civil monetary penalties (CMP) to 17 disqualified WIC vendors in lieu of a reciprocal disqualification from the FSP. FNS' rules allow CMP's in lieu of disqualification from the FSP when the agency documents that the removal of the retailer will cause a hardship, not just an inconvenience, to FSP recipients. The Georgia FO did not perform the required reviews to determine if the removal of the 17 vendors from the FSP would cause a hardship to FSP recipients. Our review questioned the need for the hardship exemptions. In addition, 8 of the 17 retailers were granted the CMP despite

¹ Trafficking is where the retailer/vendor illegally pays the FSP/WIC recipient cash at a discount from the face value of FSP/WIC benefits.

being on FNS' Watch List of suspected program violators. The 17 disqualified WIC vendors received CMP's totaling \$148,974. Assessment of the CMP's in lieu of disqualification allowed these stores to continue to participate in the FSP. We estimate that they could potentially redeem \$4.2 million in FSP benefits during the periods that they should have been disqualified. (See exhibit C.)

**Recommendations
In Brief**

We recommend that the FNS Regional Office (1) refer the eight disqualified retailers to the WIC SA's for reciprocal disqualifications, (2) require that all FO's maintain a centralized list of disqualified retailers and to periodically reconcile the list with the SA's list of WIC disqualified vendors, (3) review the referral process of the FO's serving the other six States in the region to determine that they have the necessary controls to ensure timely removal of disqualified retailers/vendors, (4) instruct the Georgia FO to verify the need for hardship exemptions prior to granting CMP's in lieu of disqualifications, and (5) review the procedures of the FO's serving the other six States in the region to ensure that they are properly verifying that hardship exists before granting CMP's in lieu of disqualifications.

Agency Response

In its June 9, 2004, response, to the draft report (see exhibit D), the FNS Regional office agreed with six of the reports' seven recommendations and outlined action taken or planned to implement them. The agency disagreed with the remaining recommendation citing restrictions in the Food Stamp Act as a barrier to implementation.

OIG Position

We agree with the agency's management decisions on the six recommendations to which it agreed. For the remaining recommendation, we will work with the agency on acceptable alternative solutions.

Abbreviations Used in this Report

AUSA
Assistant U.S. Attorney..... 5

CMP
Civil Monetary Penalties..... 9

EBT
Electronic Benefits Transfer 1

FNS
Food and Nutrition Service..... 1

FO
Field Office 1

FSP
Food Stamp Program 1

FY
Fiscal Year 2

OIC
Officer in Charge 11

OIG
Office of Inspector General 2

RO
Regional Office..... 2

SA
State agency 1

WIC
Special Supplemental Nutrition Program for Women, Infants, and Children 1

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Background and Objectives

Background

The Food Stamp Program (FSP) serves as the first line of defense against hunger by enabling low-income families to purchase nutritious foods. The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) safeguards the health of low-income women, infants, and children up to the age of five, who are at nutritional risk, by providing more nutritious foods to supplement diets, information on healthy eating, and referrals to health care.

Food Stamp Program - The FSP is administered through State and local service agencies that certify applicant households for food stamp benefits. The recipient household uses an electronic benefits transfer (EBT) card to redeem FSP benefits at the Food and Nutrition Service's (FNS) authorized retailers². FNS' field offices (FO), generally located in each State, authorize retailers to redeem recipients' FSP benefits. In addition, the FO's are responsible for monitoring the retailers, imposing disqualifications on retailers found violating program rules, and ensuring vendors disqualified from the WIC Program do not continue to participate in the FSP.

To be authorized to redeem FSP benefits, a retailer must sell a variety of qualifying staple food items and the food sales must exceed 50 percent of its total gross sales. Each retailer has a point-of-sale terminal to process FSP transactions when recipients use their EBT card to purchase eligible food items. The recipient's FSP benefit account is debited for the sale, and the retailer's account is credited for the sale. At the end of each day, the retailer's transactions are totaled and funds are transferred from the U.S. Treasury to the retailer's bank account.

Special Supplemental Nutrition Program for Women, Infants, and Children - The WIC Program is administered through State and local agencies that certify applicant households for WIC benefits. WIC households receive vouchers redeemable for specified food items at participating vendors. WIC vendors generally also participate in the FSP. State agencies (SA) are responsible for authorizing vendors to redeem household WIC vouchers. In addition, the SA's are responsible for monitoring the vendors, imposing disqualifications on vendors found violating program rules, and ensuring disqualified FSP retailers do not participate in the WIC Program.

A WIC vendor must agree to provide the participants with specified food items listed on the vouchers at specified prices. The WIC vouchers are redeemed through the commercial banking system.

² Retailer/Vendor/Store – These terms are interchangeable. A store authorized in FSP is called a retailer, while the same store authorized in the WIC Program is called a vendor.

In 1995, the Office of Inspector General (OIG) released a report³ entitled, “Food Stamp Program and the Special Supplemental Food Program for Women, Infants, and Children Disqualification of Vendors and Retailers.” The report found that violation prone retailers/vendors were not always removed from participation in all FNS programs for which they were authorized. The audit disclosed control weakness over the (1) sanction policies among the WIC SA’s, (2) investigation process by WIC SA’s, (3) coordination between FNS FO’s and WIC SA’s for disqualification activities, and (4) appeals process for disqualified WIC vendors.

In response to this audit, FNS issued regulations to set forth uniform penalties for retailers/vendors who are guilty of FSP/WIC Program violations. The regulations require that the disqualifying agency notify the other agency within 15 days of the conclusion of all appeals, if the disqualification was upheld. The regulations further provide that the reciprocal disqualification shall be for the same length of time. A reciprocal disqualification is not subject to administrative or judicial review.

The FNS Southeast Regional Office (RO), located in Atlanta, Georgia, is responsible for the FSP and WIC Program activities in eight States. We reviewed the FSP’s and WIC Program’s retailer/vendor monitoring activities in the two States with the largest caseloads in the region, Florida and Georgia. Table 1 presents the Florida and Georgia FSP and WIC Program statistics for fiscal years (FY) 2001 through 2003.

Table 1

WIC Program						
FY	Vendors		Participants		Food Dollars	
	FL	GA	FL	GA	FL	GA
2001	2,117	1,866	316,758	226,365	\$140,763,718	\$86,730,395
2002	2,207	1,875	340,954	237,124	\$151,153,452	\$93,248,489
2003	2,121	1,752	354,495	246,027	\$153,526,357	\$97,763,411
Food Stamp Program (FSP)						
FY	Retailers		Participants		Food Dollars	
	FL	GA	FL	GA	FL	GA
2001	7,899	3,978	887,256	573,537	\$770,726,070	\$515,153,023
2002	7,582	3,917	985,130	645,633	\$878,454,831	\$621,290,583
2003	7,620	3,934	1,041,315	750,208	\$987,926,276	\$782,410,910

³ September 1995, OIG report No. 27601-4-CH, “Food and Nutrition Service FSP and WIC - Disqualification of Vendors and Retailers.”

Objectives

The audit objectives were to determine if FNS' internal controls were adequate to ensure (1) retailer/vendors disqualified from one FNS program were also disqualified in all other FNS programs, (2) retailer/vendors found violating program rules were sanctioned, and (3) that internal controls were adequate to monitor sanctioned retailer/vendors.

Findings and Recommendations

Section 1. Reciprocal Disqualification

Finding 1

Retailers Disqualified From the FSP Were Not Referred to the WIC SA for Reciprocal Disqualification

Between October 1, 2000, and July 31, 2003, FNS disqualified 459 retailers from participation in the FSP. Of the 459 retailers, 46 were also authorized to participate in the WIC Program. We found that FNS did not refer 8 of the 46 disqualified FSP retailers (17.4 percent) to the WIC SA's for reciprocal disqualifications. The FNS FO's did not have a system to verify that disqualified FSP retailers were either referred or removed from the WIC Program. As a result, the eight disqualified FSP retailers continued to participate in the WIC Program. We estimate that they could potentially redeem \$903,732 in WIC benefits during the period that they should have been disqualified (see exhibit B).

Regulations⁴ require that when a retailer/vendor is disqualified from one FNS program (FSP/WIC), it will be removed from all FNS programs. Further, the reciprocal disqualification shall be for the same length of time.

When a retailer/vendor is disqualified, the FNS FO or SA sends a letter to the other agency informing them of the disqualification. The agency receiving the notification must act on the information and remove the disqualified retailer/vendor from their program. Our review found that the FNS FO's had no followup procedures to ensure that the referral was acted on. FNS FO's did not (1) maintain a list of disqualified retailers/vendors referred to the SA and (2) perform periodic reconciliations of disqualified retailers/vendors to ensure that they were not continuing to participate in FNS programs.

To identify retailers/vendors sanctioned, we requested the FNS FO's and WIC SA's to generate a list of them for each program for the period October 1, 2000, through July 31, 2003. The Florida and Georgia FNS FO's disqualified 459 retailers from the FSP and the SA's disqualified 94 vendors from the WIC Program (see table 2).

Table 2

State	WIC Disqualifications	FSP Disqualifications
Florida	23	328
Georgia	71	131
Total	94	459

⁴ 7 Code of Federal Regulations (CFR) 278.6(e)(8), and 7 CFR 246.12(h)(xxv), dated January 2003.

We compared the lists to identify disqualified retailers/vendors who did not appear on both lists. For those retailers/vendors that did not appear on both lists, we determined if the retailer/vendor was authorized to participate in the other FNS program. We found that (1) 46 of the 459 disqualified FSP retailers were authorized to participate in the WIC Program and (2) FNS had not referred 8 of the 46 retailers to the WIC Program for a reciprocal disqualification. The eight retailers redeemed \$483,154 in WIC benefits between when they should have been disqualified and December 31, 2003. Based on past redemptions, they could potentially redeem another \$420,578 during the remaining periods of disqualifications (see exhibit B). We did not find any disqualified WIC vendors who were not removed, as appropriate, from the FSP.

Georgia – Of the 131 Georgia retailers disqualified from the FSP between October 1, 2000, and July 31, 2003, we determined that 33 were authorized to participate in the WIC Program. We found that the Georgia FNS FO did not refer 6 of the 33 disqualified retailers to the WIC SA. The FO staff could not explain why the six disqualified retailers were not referred to the WIC SA and agreed that a referral was required.

Of the six retailers, the two with the largest WIC redemptions appeared on the WIC SA's high-risk vendor list indicating abuse of that program also. SA's generate a quarterly list of vendors at high-risk of suspected program abuse. Questionable redemption indicators include low variance in voucher amounts, large percentage of vouchers redeemed at the same price, large percentage of the area's vouchers redeemed, and a large percentage of out of area vouchers. For example:

- **Authorization No. 3353494** – The FNS Compliance Branch Office investigated the retailer from March to May 2002, and found that the store had exchanged cash for EBT benefits at discounted rates (commonly referred to as trafficking). FNS referred the case to OIG for investigation. The OIG investigators interviewed FSP recipients who admitted selling their benefits to the retailer. OIG presented the case to an Assistant U.S. Attorney (AUSA) for prosecution. However, the AUSA declined the case because the monetary loss involved did not meet the prosecutable guidelines.

In November 2002, FNS permanently disqualified the store from the FSP for trafficking. FO staff could not explain why the retailer was not referred to the WIC SA for a reciprocal disqualification. This retailer appeared on the WIC SA's high-risk vendor list since October 2000, which indicated potential abuse of the WIC Program.

The retailer redeemed \$272,297 in WIC vouchers between the November 2002 FSP disqualification and October 2003. Based on

past redemptions, the vendor could have continued to redeem \$251,352 annually in WIC benefits.

- **Authorization No. 2857596** – The FNS Compliance Branch Office investigated the store in September 2000 and found FSP recipients who admitted selling their benefits to the retailer for cash. In December 2000, FNS permanently disqualified the retailer from the FSP for trafficking. In January 2001, FNS referred the case to the WIC SA prior to a final determination on the retailer's appeal. The WIC SA disqualified the store, but had to reinstate it to the program because the FSP appeals process was not concluded. On January 8, 2002, the FNS Administrative Review Board upheld the permanent disqualification.

The FO staff could not explain why the WIC SA was not subsequently notified of the appeal decision to permanently disqualify the retailer. The retailer had appeared on the WIC SA's high-risk vendor list since January 2000 indicating a pattern of suspected abuse. The retailer redeemed \$122,635 between February 2002 and October 2003. Based on past redemptions, the vendor could have continued to redeem \$63,984 annually in WIC benefits.

We referred the two vendors cited above to OIG Investigations. OIG Investigations declined to investigate the two vendors allowing the WIC SA to remove these vendors from the program in October 2003.

As a result of our review, the Georgia FNS FO and WIC SA met on August 13, 2003, to establish referral procedures between the programs for disqualified retailers/vendors. A contact person was established for each agency to coordinate disqualification activities and exchange disqualification information the first week of each month.

Florida – Of the 328 retailers disqualified from the Florida FSP, 13 were authorized to participate in the WIC Program. The FNS FO did not refer 2 of the 13 disqualified FSP retailers to the WIC SA for a reciprocal disqualification. The staff could not provide an explanation of why the two disqualified retailers were not referred to the WIC SA and agreed that a referral was required.

Recommendation No. 1

Review the referral process between the FNS FO's and WIC SA's for the other six States in the region and implement controls as appropriate to ensure timely removal of disqualified retailers/vendors.

Agency Response. In its June 9, 2004, response, FNS stated,

*By July 15, 2004, the Regional Director of Field Operations and the Regional WIC Director will review the reciprocal referral process between the * * * [FO's] and the * * * [SA's] and issue a report reflecting the findings of the review and describing controls that will be implemented to ensure timely removal of disqualified retailers/vendors. By August 15, 2004, * * * [FO's] and * * * [SA's] will be notified of the controls and advised to implement them immediately.*

OIG Position. We agree with the management decision. For final action, the FNS RO needs to provide OCFO with its report of findings and the notification to FO's and SA's of controls to be implemented.

Recommendation No. 2

Require FO's to maintain a centralized list of disqualified FSP retailers and periodically reconcile the list with WIC disqualified vendors.

Agency Response. In its June 9, 2004, response, FNS stated,

*By July 15, 2004, the Regional Director of Field Operations will send a reminder to all * * * [FO] staff that all Food Stamp sanctions must be referred to the WIC * * * [SA], and the referral entered in STARS through the CATS menu. On a quarterly basis, the SERO Director of Field Operations will retrieve a list from STARS of all * * * [FSP] sanctions referred to each WIC * * * [SA] and provide the list to the Regional WIC Director. The WIC Director will then share the list with each WIC * * * [SA] and request that each agency confirm that proper reciprocal action was taken on each case, as appropriate. The first list will be provided to the Regional WIC Director by August 1, 2004, covering the period April through June 2004.*

OIG Position. We agree with the management decision. For final action, the FNS RO needs to provide OCFO with a copy of the reminder issued to FO's.

Recommendation No. 3

Require the Georgia and Florida FO's to refer the eight retailers to the respective WIC SA's for disqualification.

Agency Response. In its June 9, 2004, response, FNS stated,

*All eight retailers have been referred to their respective * * * [SA's]. Following the completion of the audit report, the Florida * * * [FO] located documentation to show that one of the two stores the auditors found as not having been referred to the State WIC office had indeed been referred. * * * FNS requests that this recommendation be closed.*

OIG Position. We agree with the management decision. For final action, the FNS RO needs to provide OCFO with documentation that the seven cases were referred to the respective SA's.

Section 2. Questionable Civil Monetary Penalties Granted

Finding 2

Hardship Civil Monetary Penalties Were Granted in Lieu of Disqualifications Without Proper Review

The Georgia FNS FO improperly granted 17 disqualified WIC vendors hardship civil monetary penalties (CMP) in lieu of reciprocal disqualifications from the FSP. The FO granted the CMP's without substantiating the vendors' representations that disqualifications would cause a hardship to FSP recipients residing in the area served by the stores. Our review questioned the need for the hardship exemptions. Further, 8 of the 17 disqualified retailers were on FNS' Watch List of violation prone vendors when the CMP's were granted. The 17 retailers received CMP's totaling \$148,974 in lieu of disqualification. As a result, we estimate the 17 retailers could potentially redeem about \$4.2 million in FSP benefits during periods when they should have been disqualified (see exhibit C).

FNS Regulations allow a CMP in lieu of disqualification from the FSP when the store's disqualification would cause hardship to FSP households because there are no other authorized retailers in the area.⁵ The CMP was intended to be used only in those situations where the retailer's disqualification would cause a hardship, not just an inconvenience, to FSP recipients⁶.

FNS Regulations established a series of steps that the FO must follow to determine if a disqualified WIC vendor is eligible for a hardship CMP. The FO must (1) identify comparable firms in the area selling a substantial variety of staple foods at comparable prices, (2) determine if comparable stores are accessible to recipients, and (3) verify if the store had previous FSP violations⁷.

In Georgia, 17 of the 71 disqualified WIC vendors received CMP's totaling \$148,974 in lieu of a 3-year disqualification from the FSP for overcharging WIC customers. The FO did not perform the required review steps to determine if a disqualification would cause a hardship to FSP recipients in the area. The FO staff stated that they relied on representations made by the disqualified WIC vendors and had not conducted a review to confirm the vendors' hardship claim. Our review questioned the need for the hardship exemptions.

⁵ 7 CFR 278.6(f)(1).

⁶ FNS Handbook 318, chapter 9, section 920.

⁷ FNS Handbook, chapter 9, section 920(B).

In addition, the Georgia FO did not review the Watch List of violation prone FSP retailers before making a determination to grant a vendor a hardship exemption. Eight of the 17 vendors were on FNS' Watch List before the CMP was granted and another one appeared on the list after it was granted the CMP. The Watch List identifies retailers that are prone to FSP violations. Each month the FO's receive the Watch List. The list identifies retailers with possible violations based on a number of risk rating criteria. The FO's, FNS Compliance Branch Offices, and law enforcement agencies use the Watch List to target retailers for reviews. The FO staff stated that they had not reviewed the Watch List prior to granting a CMP.

Paying the \$148,974 in penalties allowed the 17 stores to (1) redeem \$1,860,289 in FSP benefits between when the disqualification should have been imposed and February 13, 2004, and (2) based on past redemptions, potentially redeem another \$2,352,729 in FSP benefits over the remaining portions of the 3-year disqualification periods. Examples follow.

- **Authorization No. 4015** – In July 2003, the WIC SA's decision to impose a 3-year disqualification against the vendor for a pattern of overcharging WIC customers was upheld by the appeals branch. The SA referred the store to FNS for disqualification. However, the FO granted an \$11,000 CMP without verifying the retailer's representation that disqualification would cause a hardship to FSP recipients residing in the area. The retailer also appeared on the FNS Watch List prior to granting the CMP.

Our review identified 26 authorized FSP retailers within 2 miles of this disqualified retailer. The retailer redeemed \$74,007 in food stamp benefits between August 2003 and February 2004 (7 months). Based on past redemptions, the retailer could redeem another \$306,588 in FSP benefits over the remaining 29 months it should have been disqualified.

- **Authorization No. 4163** – In November 2002, the SA imposed a 3-year disqualification against the vendor for a pattern of overcharging WIC customers. The retailer sent a letter to the FO requesting a CMP in lieu of disqualification from the FSP. The letter stated that the store was the only one in the area and disqualifying it would cause a hardship to FSP recipients. In May 2003, the FO granted an \$11,000 CMP without verifying if the retailer's disqualification would cause a hardship to FSP's recipients in the area. The FO granted the CMP despite the retailer appearing on the FNS Watch List since August 2002. Our review identified six authorized retailers within two miles of this disqualified retailer. Three of these six retailers were chain supermarkets.

We determined that the retailer redeemed \$775,716 in FSP benefits during the 15-month period (December 1, 2002, through February 13, 2004). Based on past redemptions, the retailer could potentially redeem another \$1,085,994 over the remaining 21 months it should have been disqualified.

Recommendation No. 4

Instruct the Georgia FO to verify that a hardship to FSP's recipients exists before granting a disqualified WIC vendor a CMP.

Agency Response. In its June 9, 2004, response, FNS stated,

*See attached memo to the Georgia Officer in Charge (OIC), dated, May 4, 2004, instructing the OIC that all potential disqualifications, including WIC disqualifications, be evaluated for a CMP in accordance with the * * * [FSP] regulations and policy guidance and to include documentation in the file substantiating the * * * [FO] decision in each case. FNS requests that this recommendation be closed.*

OIG Position. We agree with the management decision. The notification to the Georgia OIC is sufficient for final action.

Recommendation No. 5

Request the FNS Compliance Branch Office to give priority to investigating the nine retailers who received CMP's and who appear on the FNS Watch List.

Agency Response. In its June 9, 2004, response, FNS stated,

By June 30, 2004, the redemption patterns for each of the nine retailers will be analyzed to determine if they should be referred to the Retailer Investigation Branch (formerly the Compliance Branch); or, if an EBT case should be established.

It should be noted that when a store appears on the Watch List, it simply means that given certain redemption patterns and characteristics, there is a possibility that a store is violating – it is not an exact predictor that violations are actually occurring. In many Watch List cases, after analyzing a store's redemption patterns a decision is made to take no further action as the redemption patterns can be explained or justified.

OIG Position. We agree with the management decision. For final action, the FNS RO needs to provide OCFO with results of its analysis of the nine retailers and copies of EBT case openings as appropriate.

Recommendation No. 6

Review the FO's serving the other six States' in the region to ensure that they verify hardships to FSP's recipients before granting a disqualified WIC vendor a CMP.

Agency Response. In its June 9, 2004, response, FNS stated,

*Depending on the volume of CMP's imposed by each * * * [FO], by August 1, 2004, the Office of Field Operations will review all hardship CMP's granted over the past 12 months, or a random sample of hardship CMP's, from the other six SERO * * * [FO's]. If problems are noted, proper corrective action will be taken.*

OIG Position. We agree with the management decision. For final action, the FNS RO needs to provide OCFO with results of the review of CMP's granted in the six FO's and documentation of corrective actions taken as appropriate.

Recommendation No. 7

Instruct FO's to consider a retailers listing on the Watch List when deliberating whether to grant a CMP in lieu of disqualification.

Agency Response. In its June 9, 2004, response, FNS stated,

*FNS does not have the statutory or regulatory authority to implement this recommendation. The Food Stamp Act at 7 * * * [United States Code] 2021(a), and the regulations at 278.6(f)(1), set forth the specific criteria * * * [FO's] must consider in determining if a store qualifies for a hardship CMP – the fact that a store appears on the Watch List is not one of those criteria. Furthermore, the imposition of a hardship CMP is viewed as an “equivalent” penalty to a disqualification.*

Based on the above information, FNS requests that Recommendation No. 7 be eliminated from the final report.

OIG Position. The FNS RO response addressed the recommendation in the discussion draft report to require CMP's not be granted retailers

appearing on the Watch List. Based on comments at the April 7, 2004, exit conference, we revised the recommendation to consider a retailers' appearance on the Watch List as a fact or when deliberating whether to grant as a CMP. We believe factoring the Watch List listing into CMP deliberations is prudent given that the retailer had been found to have committed serious violations of the WIC Program with indicators that it was also committing violations in the FSP.

To achieve a management decision, we need details and timeframes for implementing the recommendation.

Scope and Methodology

The review was performed at the FNS Southeast RO in Atlanta, Georgia; FNS field offices and WIC SA's in Tallahassee, Florida and Atlanta, Georgia. Fieldwork was performed from July 7, 2003, through February 13, 2004. We reviewed FSP and WIC Program disqualifications in Florida and Georgia from October 1, 2000, through July 31, 2003.

We selected Florida and Georgia for review because they were the two largest FSP and WIC Program payment States in the Southeast FNS Region. We identified a total of 459 retailers disqualified from the FSP and 94 vendors disqualified from the WIC Program for the 2 States. We assessed FNS' internal controls that require the referral of a disqualified retailer/vendor to the other FNS program for a required reciprocal disqualification.

To accomplish our audit objectives, we performed the following audit steps and procedures.

- Reviewed FNS Regulations and procedures for disqualification and sanctions for violations on the FSP and WIC Programs.
- Interviewed responsible FNS and WIC officials managing both FSP and WIC Programs.
- Reviewed FSP and WIC databases used to track and record vendor/retailer activities.
- Analyzed vendor/retailer records to ensure compliance with FNS' reciprocal disqualifications regulations.
- Reviewed FNS' and WIC SA's records to determine program redemption and authorization history.
- Identified authorized FSP retailers located in neighborhoods near WIC Program disqualified stores.

The audit was performed in accordance with generally accepted government auditing standards.

Exhibit A – Summary of Monetary Results

Finding No.	Description	Amount	Category
1	WIC benefits redeemed by vendors who should have been disqualified.	\$483,154	Questioned Costs, Recovery not Recommended
2	FSP benefits redeemed by retailers receiving CMP's in lieu of disqualification.	\$1,860,289	Questioned Costs, Recovery not Recommended

Funds To Be Put To Better Use.

Exhibit B – Disqualified Food Stamp Program Retailers Redeeming WIC Program Benefits

FSP Authorization Number	Sanction Date	Reason	Sanction	Amount of WIC Vouchers Redeemed ^A	DQ Months Left	Estimated Future Redemptions ^B	Total Potential Redemptions
1363905	Apr 03	1	1-Yr. DQ	\$26,362	4	\$13,180	\$39,542
4787102	Jan 03	1	3-Yr. DQ	12,105	25	27,500	39,605
4623886	Apr 03	1	3-Yr. DQ	11,739	28	41,076	52,815
2579472	Oct 00	2	Perm. DQ	248	^C	0	248
2857596	Jan 02	2	Perm. DQ [∞]	122,635	^B	63,984	186,619
3353494	Nov 02	2	Perm. DQ [∞]	272,297	^B	251,352	523,649
3686809	Mar 02	2	Perm. DQ	31,881	^B	18,216	50,097
3390543	May 02	1	3-Yr. DQ	5,887	17	5,270	11,157
			Total	\$483,154		\$420,578	\$903,732

[∞] Retailer on WIC SA High Risk Vendor List

^A WIC redemptions beginning with the month after the FSP sanction through December 31, 2003.

^B Average redemptions, during the disqualification period, times the months remaining in the disqualification period. For permanent disqualified stores, the future estimate was limited to 1 year.

^C Authorized but not redeeming WIC vouchers.

Sanction Reasons:

- 1 - Accepting FS benefits in exchange for ineligible items.
- 2 - Trafficking

Exhibit C – Disqualified WIC Vendors Improperly Assessed CMP's

Exhibit C – Page 1 of 1

WIC Auth. No.	Date of Sanction	CMP Amount	Amount of FS Redeemed ¹	DQ Months Left	Estimated Future Redemptions ²	Total Potential Redemptions	Appeared on the Watch List
3950	May 2003	\$11,000	\$40,549	27	\$121,635	\$162,184	No
4010	Aug 2001	11,000	176,342	6	35,268	211,610	Yes ‡
3398	Sep 2001	4,608	24,341	7	5,873	30,214	No
4284	Oct 2002	12,378	59,793	20	74,740	134,533	Yes †
4119	Oct 2002	3,132	16,420	20	20,520	36,940	No
4198	Mar 2001	10,008	125,175	1	3,576	128,751	No
4488	Apr 2002	\$9,159	56,847	12	28,428	85,275	No
4046	Jul 2002	7,709	42,645	17	38,148	80,793	Yes †
4218	Mar 2003	2,192	9,804	25	22,275	32,079	No
2396	Jul 2002	11,000	139,559	17	124,865	264,424	Yes †
4163	Nov 2002	11,000	775,716	21	1,085,994	1,861,710	Yes †
4019	Dec 2002	11,000	135,890	22	213,532	349,422	Yes †
2959	Nov 2002	1,908	7,448	21	10,437	17,885	Yes †
3646	Nov 2002	16,668	82,018	21	114,828	196,846	Yes †
4015	Jul 2003	11,000	74,007	29	306,588	380,595	Yes †
4575	Nov 2002	11,000	84,495	21	118,293	202,788	No
4290	May 2003	4,212	9,240	27	27,729	36,969	No
	Totals	\$148,974	\$1,860,289		\$2,352,729	\$4,213,018	

¹ FSP redemptions, beginning with the month after the WIC sanction through February 13, 2004.

² Average redemptions, during the disqualification period, times the months remaining in the 3-year disqualification.

† Vendor appeared on FNS Watch List prior to granting the CMP.

‡ Vendor appeared on FNS Watch List after granting the CMP.

Exhibit D – Agency Response

Exhibit D– Page 1 of 3



**United States
Department of
Agriculture**

**Food and
Nutrition
Service**

Southeast Region

**61 Forsyth St. S.W.
Room 8T36
Atlanta, GA
30303-3415**

Date: June 9, 2004

To: Raymond G. Poland
Regional Inspector General
Office of Inspector General
Southeast Region - Audit

Subject: FNS Vendor Sanction Policies – Draft Audit Report No. 27002-1-At

Attached is FNS' response to the subject draft audit dated March 12, 2004.

You or your staff may contact Gilbert Camacho, Director of Field Operations, at (404) 562-1912 if you have any questions regarding our response.

A handwritten signature in cursive script that reads "Crayton J. Lankford".

CRAYTON J. LANKFORD
Acting Regional Administrator

Attachments

Exhibit D – Agency Response

Response to OIG Discussion Draft Audit No. 27002-1-AT
FNS Vendor Sanction Policies
Dated March 12, 2004

Factual Misstatement

Finding 1, Page 4, 3rd paragraph, line 6 – states, in part, that “FNS FO’s did not (1) maintain a list of disqualified retailers/vendors referred to the SA...”

Correction - Food Stamp Program sanctions that are referred to WIC State agencies are entered in STARS (Store Tracking and Redemption System), through the CATS (Case Activity Tracking) menu. The data can then be retrieved at any point in time, over any desired period of time – by Program Specialist, Field Office and/or Region - through the CATS Stats and Lists – Admin Focus menu.

Recommendation No. 1 - Review the referral process between the FNS FOs and WIC SA’s for the other six States in the region and implement controls as appropriate to ensure timely removal of disqualified retailers/vendors.

FNS Response: By July 15, 2004, the Regional Director of Field Operations and the Regional WIC Director will review the reciprocal referral process between the Field Offices and the State agencies and issue a report reflecting the findings of the review and describing controls that will be implemented to ensure timely removal of disqualified retailers/vendors. By August 15, 2004, Field Offices and State agencies will be notified of the controls and advised to implement them immediately.

Recommendation No. 2 - Require FO’s to maintain a centralized list of disqualified FSP retailers and periodically reconcile the list with WIC disqualified vendors.

FNS Response: By July 15, 2004, the Regional Director of Field Operations will send a reminder to all field office staff that all Food Stamp sanctions must be referred to the WIC State agency, and the referral entered in STARS through the CATS menu. On a quarterly basis, the SERO Director of Field Operations will retrieve a list from STARS of all Food Stamp Program sanctions referred to each WIC State agency and provide the list to the Regional WIC Director. The WIC Director will then share the list with each WIC State agency and request that each agency confirm that proper reciprocal action was taken on each case, as appropriate. The first list will be provided to the Regional WIC Director by August 1, 2004, covering the period April through June, 2004.

Recommendation No. 3 – Require the Georgia and Florida FO’s to refer the eight retailers to the respective WIC SA’s for disqualification.

FNS Response: All eight retailers have been referred to their respective State agencies. Following the completion of the audit report, the Florida Field Office located documentation to show that one of the two stores the auditors found as not having been referred to the State WIC office had indeed been referred. See attached documentation. FNS requests that this recommendation be closed.

Exhibit D – Agency Response

Recommendation No. 4 – Instruct the Georgia FO to verify that a hardship to FSP recipients exists before granting a disqualified WIC vendor a CMP.

FNS Response: See attached memo to the Georgia Officer in Charge (OIC), dated May 4, 2004, instructing the OIC that all potential disqualifications, including WIC disqualifications, be evaluated for a CMP in accordance with the Food Stamp Program regulations and policy guidance and to include documentation in the file substantiating the Field Office decision in each case. FNS requests that this recommendation be closed.

Recommendation No. 5 – Request the FNS Compliance Branch Office to give priority to investigating the nine retailers who received CMP's and who appear on the FNS Watch List.

FNS Response: By June 30, 2004, the redemption patterns for each of the nine retailers will be analyzed to determine if they should be referred to the Retailer Investigation Branch (formerly the Compliance Branch); or, if an EBT case should be established.

It should be noted that when a store appears on the Watch List, it simply means that given certain redemption patterns and characteristics, there is a possibility that a store is violating – it is not an exact predictor that violations are actually occurring. In many Watch List cases, after analyzing a store's redemption patterns a decision is made to take no further action as the redemption patterns can be explained or justified.

Recommendation No. 6 – Review the FO's serving the other six States in the region to ensure that they verify hardships to FSP recipients before granting a disqualified WIC vendor a CMP.

FNS Response: Depending on the volume of CMPs imposed by each Field Office, by August 1, 2004, the Office of Field Operations will review all hardship CMPs granted over the past 12 months, or a random sample of hardship CMPs, from the other six SERO Field Offices. If problems are noted, proper corrective action will be taken.

Recommendation No. 7 – Require FO's to review the Watch List to ensure that retailers listed are not granted a CMP in lieu of disqualification.

FNS Response: FNS does not have the statutory or regulatory authority to implement this recommendation. The Food Stamp Act at 7 U.S.C. 2021(a) and the regulations at 278.6(f)(1) set forth the specific criteria field offices must consider in determining if a store qualifies for a hardship CMP – the fact that a store appears on the Watch List is not one of those criteria. Furthermore, the imposition of a hardship CMP is viewed as an “equivalent” penalty to a disqualification.

Based on the above information, FNS requests that Recommendation No. 7 be eliminated from the final report.