



# New York's Controls Over Summer Food Service Program—Interim Report

## Audit Report 27004-0001-23(1)

OIG reviewed New York's controls over FNS' SFSP as well as sponsor compliance with food safety.

### OBJECTIVE

The overall objectives of our ongoing audit are to (1) evaluate the adequacy of New York's controls over SFSP sponsors, and (2) determine if selected sponsors and sites are in compliance. This report provides our interim results, in particular, sponsor compliance with SFSP regulations and policies related to compliance with State and local food safety requirements.

### RECOMMENDS

FNS should ensure that NYSED officials require the sponsor to submit an action plan to correct food storage and temperature requirement deficiencies identified during OIG's site visit and ensure that all sites it operates are in compliance with State and local food storage and temperature requirements. FNS should also ensure that NYSED officials monitor the sponsor's correction of deficiencies and compliance with State and local food safety requirements.

### REVIEWED

We reviewed SFSP laws and regulations, interviewed relevant officials, conducted site visits, and began assessing SFSP sponsors' records and documentation. We visited two sites operated by a school food authority sponsor to determine if its sites complied with SFSP requirements.

### WHAT OIG FOUND

Summer Food Service Program (SFSP) provides nutritious meals to children from needy areas during the summer months when schools are closed. An SFSP site approved to serve summer meals to children did not have sufficient food storage equipment available to maintain adequate temperatures for milk. The site staff held milk in crates for more than five hours because the sponsor did not ensure sufficient refrigerator storage space or coolers were available at this site to hold milk at the correct temperature. As a result, this site's personnel risked increasing the potential for contamination.

Federal regulations require meals not prepared at the food service sites to be delivered no earlier than one hour prior to the beginning of meal service unless the site has adequate equipment for holding hot or cold meals within the temperatures required by State or local health regulations. New York State and local health regulations require potentially hazardous food to be maintained at 45 °F or below at all times except: (1) during necessary times of preparation, or (2) while food is waiting to be served, but for no more than two hours.

New York State Education Department officials agreed that the sponsor's site was out of compliance with Federal and State requirements and informed us that they contacted the sponsor to initiate corrective actions.

The Food and Nutrition Service (FNS), the Federal awarding agency, officials concurred with our finding and we accepted management decision on all recommendations.





United States Department of Agriculture  
Office of Inspector General  
Washington, D.C. 20250



DATE: November 6, 2017

AUDIT  
NUMBER: 27004-0001-23 (1)

TO: Brandon Lipps  
Administrator  
Food and Nutrition Service

ATTN: Mark Porter  
Director  
Office of Internal Controls, Audits and Investigations

FROM: Gil H. Harden  
Assistant Inspector General for Audit

SUBJECT: New York's Controls Over Summer Food Service Program - Interim Report

This interim report presents results from the subject audit. Your written response to the official draft report, dated October 20, 2017, is included in its entirety at the end of this report. Your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on your written response, we are accepting management decision for all audit recommendations in the report, and no further response to this office is necessary.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than the Office of the Chief Financial Officer (OCFO), please follow your internal agency procedures in forwarding final action correspondence to OCFO.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions. This interim report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



# **Table of Contents**

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<b>Background and Objectives .....</b>	<b>1</b>
<b>Finding 1: Insufficient Food Storage Equipment at Sponsor Site .....</b>	<b>2</b>
<b>Recommendation 1 .....</b>	<b>4</b>
<b>Recommendation 2 .....</b>	<b>4</b>
<b>Recommendation 3 .....</b>	<b>5</b>
<b>Scope and Methodology.....</b>	<b>6</b>
<b>Abbreviations .....</b>	<b>8</b>
<b>Agency's Response .....</b>	<b>9</b>



## **Background and Objectives**

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### **Background**

The Summer Food Service Program (SFSP) provides nutritious meals to children from needy areas during the summer months when schools are closed. In fiscal year 2016, SFSP provided roughly \$472 million to serve approximately 153 million meals to needy children at more than 47,000 sites. The Food and Nutrition Service (FNS), the Federal awarding agency, is responsible for oversight and for establishing internal controls to ensure States administer and monitor the program as intended. In fiscal year 2016, New York provided over \$60 million in SFSP reimbursements, making it the largest State in the country in terms of SFSP outlays.

The New York State Education Department (NYSED) is the State agency responsible for administering SFSP in New York. Besides disseminating State policy for the administration of SFSP, NYSED is responsible for reviewing and approving sponsor applications, reimbursing sponsors for meals served to children at approved sites, and monitoring to ensure sponsors and officials meet program requirements such as meal patterns and compliance with State and local food safety rules and regulations.

At the local level, SFSP sponsors manage officials at sites that provide meals to children. Sponsors include public or private nonprofit organizations such as school food authorities, churches, or camps. Sponsors can manage multiple State-approved sites that may be located at schools, community centers, apartment complexes, etc. SFSP sponsors must enter into written agreements with NYSED that outline their responsibilities to include monitoring their sites to ensure they are compliant with program requirements. SFSP reimburses approved sponsors for serving meals that meet Federal nutritional guidelines. Sponsors receive payments from the U.S. Department of Agriculture (USDA), through their State agencies, based on the number of meals they serve.

Ultimately, the sponsors' sites provide the free meals to children. These meals may be prepared onsite or purchased through a food service management company. Sites must ensure they meet proper sanitation and health standards that conform to all applicable State and local laws and regulations.

### **Objectives**

We are performing this audit in conjunction with audits of the States of California, Florida, and Texas. The overall objectives of our ongoing audit are to (1) evaluate the adequacy of New York's controls over SFSP sponsors, and (2) determine if selected sponsors and sites are in compliance with SFSP program requirements such as food safety. This report provides interim results from our audit of SFSP and, in particular, sponsor compliance with SFSP regulations and State and local food safety requirements.



## **Finding 1: Insufficient Food Storage Equipment at Sponsor Site**

An SFSP site approved to serve summer meals to children did not have sufficient food storage equipment available to maintain adequate temperatures for milk. The site staff held milk in crates for more than five hours. This occurred because the site did not have space available in the refrigerator to store the milk. New York State and local health regulations require potentially hazardous food<sup>1</sup> to be maintained at 45 °F or below at all times. However, the sponsor did not ensure sufficient refrigerator storage space or coolers, were available at this site to hold milk at the correct temperature. As a result, this site's personnel risked serving the children milk held out of temperature control for an extended period of time, increasing the potential for contamination.

Federal regulations<sup>2</sup> require meals not prepared at the food service sites to be delivered no earlier than one hour prior to the beginning of meal service unless the site has adequate equipment for holding hot or cold meals within the temperatures required by State or local health regulations. New York State and local health regulations require potentially hazardous food to be maintained at 45 °F or below at all times except: (1) during necessary times of preparation, or (2) while food is waiting to be served, but for no more than two hours.<sup>3</sup> Additionally, unserved meals and milk should be stored according to State and local rules and regulations.<sup>4</sup>

We visited an SFSP site operated by a school food authority sponsor in New York on August 1, 2017, to determine if the site complied with program requirements. The sponsor used a central kitchen to prepare meals for all their sites. Upon arrival at the site, we found that the meals intended for lunch were delivered to the site at 9:28 a.m. in plastic coolers. However, we found the milk was not stored inside the coolers. Instead, 200 cartons of milk were sitting inside 2 milk crates within an apartment complex leasing office at the site. The milk was not stored to maintain temperature, but was stored at room temperature. The site staff held the milk in the two milk crates unrefrigerated for a minimum of five hours; it remained unrefrigerated from at least 9:28 a.m. until 2:30 p.m., at the conclusion of the meal serving time.<sup>5</sup>

New York State food safety regulations<sup>6</sup> require potentially hazardous foods to be held at 45 °F or below except during necessary times of preparation or during a limited period of time while being held for service which may not exceed two hours. Therefore, sponsors are required to

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<sup>1</sup> New York State, Department of Health, Compilation of the Rules and Regulations (Title 10) Part 14; Subpart 14-1; Section 14-1.31-Food, describes "potentially hazardous food" as any food that consists in whole or in part of milk or milk products.

<sup>2</sup> Title 7, Code of Federal Regulations (CFR) § 225.16 (a) and 7 CFR § 225.16(c) (5).

<sup>3</sup> According to the New York State, Department of Health, Compilation of the Rules and Regulations (Title 10, Part 14; Subpart 14-1; Section 14-1.40(a)), food is to be protected from contamination during storage, preparation, display, service and transportation. The temperature of potentially hazardous food is to be 45 °F or below or 140 °F or above at all times, except during necessary times of preparation or during a limited period of time while being held for service which may not exceed two hours. In addition, 14-1.44 states, "enough conveniently located refrigeration facilities or effectively insulated facilities are to be provided and used to maintain potentially hazardous food at required temperatures during storage."

<sup>4</sup> Title 7, CFR § 225.16 (a).

<sup>5</sup> OIG did not observe milk from the crates served to children during meal serving time.

<sup>6</sup> New York State, Department of Health, Compilation of the Rules and Regulations (Title 10, Part 14; Subpart 14-1).

ensure their site staff do not hold food prior to meal service between the temperature range of 45°F and 140°F according to State and local food safety regulations. The milk crates used to store milk are not designed to keep food cold, and site staff did not have adequate storage space in a refrigerator or cooler to hold the milk at the required temperature. In addition, we observed the inside of the refrigerator and found it did not contain enough space to accommodate the additional 200 cartons of milk sitting on the floor in milk crates.



**Figure 1: This is a photo of the refrigerator full of milk OIG observed at the sponsor’s site to illustrate that it could not accommodate the additional delivery of milk. Photo by USDA OIG.**

Following our site visit on August 1, 2017, we discussed the identified deficiency with a sponsor official. The official agreed with the problem identified during the meal service of our site visit. The sponsor official also spoke with the responsible site staff related to our concern about the milk storage. Site staff informed the sponsor official that they normally rotate milk in and out of the refrigerator twice per day because the refrigerator is not large enough to maintain the stock of milk needed. We contacted the NYSED on August 7, 2017, regarding the practice of rotating milk and were informed it is not an acceptable practice to properly keep products cold. It is the sponsor’s overall responsibility to ensure its sites comply with Federal regulations and any State and local health codes, but we found this sponsor did not make certain this site operated in accordance with those requirements.

Overall, we concluded that the sponsor did not maintain effective oversight at the meal service site. Based on the lack of sufficient cold storage space, the site had an increased risk for contaminated milk. The sponsor took immediate corrective action the next morning following our site visit and, prior to meal service, disposed of over 200 cartons of milk that were onsite.

NYSED officials agreed that the sponsor's site was out of compliance with Federal and State requirements and informed us they already contacted the sponsor to require the sponsor to submit a corrective action plan to correct the deficiencies identified during our site visit. We notified FNS' regional officials of the sponsor's site noncompliance and NYSED's proposed corrective actions. Therefore, we recommend that FNS follow up with NYSED to ensure the site adequately corrected the problem and has complied with State and local food safety requirements.

## **Recommendation 1**

Ensure that the New York State Education Department (NYSED) officials require the sponsor to submit an action plan to correct food storage and temperature requirement deficiencies identified during the OIG August 1, 2017, site visit.

### **Agency Response**

In its October 20, 2017, response, FNS stated FNS and NYSED agreed that there were food storage deficiencies identified during the August 1, 2017 site visit. NYSED ensured that this site deficiency was corrected as the sponsor took immediate corrective action. FNS suggested a change to the wording in the recommendation to address the root cause. According to FNS, "...the site staff did not follow procedures in making appropriate adjustments in meal ordering. Had procedures been followed, there would not have been a surplus of milk, thereby not requiring additional refrigerator food storage." NYSED pursued corrective action with the sponsor to properly adjust meal orders when needed and monitor the sponsor's implementation of the corrective action plan. NYSED validated that the actions taken were adequate for closure. Additionally, the sponsor notified NYSED that this site would not operate the Summer Food Service Program in the future.

FNS completed the corrective action on October 19, 2017.

### **OIG Position**

We accept FNS' management decision on this recommendation.

## **Recommendation 2**

Ensure that NYSED officials require the sponsor, as part of its corrective actions, to ensure that all sites it operates are in compliance with State and local storage and temperature requirements.

### **Agency Response**

In its October 20, 2017, response, FNS stated:

FNS concurs with this recommendation. NYSED will provide training to all SFSP

sponsors emphasizing the importance of adhering to Federal and State procedures in monitoring and managing daily meal counts to ensure sufficient meals are available to serve every child one meal and with limited leftovers. This guidance and the procedures include compliance with State and local storage and temperature requirements. This action will prevent the need for additional, unnecessary refrigerator storage capacity for compliance with food storage temperatures. NYSED conducted additional monitoring of sites and all sites were in compliance with State and local food storage requirements.

The estimated completion date is June 30, 2018.

### **OIG Position**

We accept FNS' management decision on this recommendation.

### **Recommendation 3**

Ensure that NYSED officials monitor the site's correction of deficiencies and compliance with State and local food safety requirements.

### **Agency Response**

In its October 20, 2017, response, FNS stated:

FNS concurs with the recommendation. As is the normal process when NYSED requires a corrective action plan to address findings in a review, NYSED will monitor the implementation of the sponsor's plan and the outcome of the changes to ensure correction on a permanent basis prior to the closure of the review.

Additionally, NYSED will conduct unannounced site visits at the sponsoring organization's sites to ensure compliance with the sponsor's standard operating procedures and to ensure compliance with State and local food storage and food temperatures.

The estimated completion date is July 31, 2018.

### **OIG Position**

We accept FNS' management decision on this recommendation.

## Scope and Methodology

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We began fieldwork in New York on May 2, 2017. We performed fieldwork at NYSED’s office in Albany, New York, and at five non-statistically selected sponsors.<sup>7</sup> We non-statistically selected two sites per sponsor for site visits. Our audit focused on fiscal years 2014 through 2016.<sup>8</sup> We conducted visits at our selected sites for one sponsor on July 31, and August 1, 2017. On August 1, 2017, we observed one site that did not have sufficient food storage equipment available to maintain adequate temperatures for milk. Based on our observation at one site, we determined it necessary to issue an interim report due to a sponsor’s lack of compliance with SFSP requirements.

To accomplish our audit objectives, so far we have performed the following:

- Reviewed applicable laws, regulations, and agency procedures concerning SFSP.
- Interviewed NYSED officials regarding oversight actions implemented to ensure sponsors and sites complied with Federal and State program regulations and policies.
- Non-statistically selected five sponsors that participated in SFSP to review their claims for reimbursement and current operations. We selected the sponsors based on several factors—including the entity type,<sup>9</sup> type of sites,<sup>10</sup> and those who received more than \$100,000 in reimbursements for 2016.
- Non-statistically selected two “open” sites<sup>11</sup> with the highest reimbursements in 2016.
- Visited the selected sites to determine whether they were complying with their SFSP requirements, for example, verifying claims, meal counts, whether the site complied with the agreements, and State and local food safety requirements.
- Developed three pro-forma worksheets to assist in reviewing NYSED’s controls over SFSP operations for the five sponsors in our sample and their sites.
- Requested and started assessment of sampled sponsors’ records and supporting documentation such as bank statements, vendor receipts, and meal count sheets to evaluate the accuracy of claims submitted and sponsor compliance with Federal program regulations.

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<sup>7</sup> Sponsors were located in Albany, Bethpage, Monticello, Niagara Falls, and Rochester, New York.

<sup>8</sup> In addition, we observed meal services in fiscal year 2017.

<sup>9</sup> We selected one school food authority and four non-profit sponsors.

<sup>10</sup> We selected sponsors that operated sites with the following characteristics: rural sites, urban sites, vended sites, and self-preparation sites.

<sup>11</sup> 7 CFR § 225.2 defines “Open Site” as a site where meals are made available to all children in the area in which 50 percent of the children are from households that would be eligible for free or reduced price school meals under the National School Lunch Program and School Breakfast Program.

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We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We have not completed our information technology work at this time; however, we will include any conclusions on this area in our final report.

## Abbreviations

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CFR.....	Code of Federal Regulations
FNS.....	Food and Nutrition Service
NYSED.....	New York State Education Department
OIG.....	Office of Inspector General
SFSP.....	Summer Food Service Program
USDA.....	U.S. Department of Agriculture

**FOOD AND NUTRITION SERVICE  
RESPONSE TO AUDIT REPORT**







**United States  
Department of  
Agriculture**

Food and  
Nutrition  
Service

3101 Park  
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Alexandria, VA  
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DATE: October 20, 2017

AUDIT  
NUMBER: 27004-0001-23-1

TO: Gil H. Harden  
Assistant Inspector General for Audit

FROM: Brandon Lipps /s/  
Administrator  
Food and Nutrition Service

SUBJECT: New York's Controls Over the Summer Food Service Program - Interim  
Report

This letter responds to the official draft report for audit number 27004-0001-23-1, New York's Controls over the Summer Food Service Program (Interim Report). Specifically, the Food and Nutrition Service (FNS) is responding to the three recommendations in the report.

### **OIG Recommendation 1:**

Ensure that the New York State Education Department (NYSED) officials require the sponsor to submit an action plan to correct food storage and temperature requirement deficiencies identified during the OIG August 1, 2017, site visit.

### **FNS Response:**

Although FNS and NYSED agree that there were food storage deficiencies identified during the August 1, 2017 site visit, we do not agree with the recommendation as worded. The action to correct food storage and temperature requirement deficiencies at the site, which would require additional food storage capabilities, does not address the cause for the site having excess milk on hand.

The recommendation does not address NYSED's and FNS's procedures to ensure that meal counts are adjusted daily to meet the objective of serving each child one meal as outlined in USDA's Food Service Guide for Sponsors, NYSED's *Summer Meals Site Review Form* and USDA's – *Do's and Don'ts for Site Supervisors* used by NYSED. Sponsors should plan ahead and do their best to ensure every eligible child receives a meal. Sites should regularly communicate with their sponsoring organization to discuss anticipated attendance and daily meal orders. Sponsoring organizations should train all site supervisors on procedures regarding how and when to adjust meal orders for the next day. NYSED's *Summer Meals Site Review Form* assesses adjustments

sites make in meal production/ordering to limit leftovers, and suggests corrective actions for adjustments made and staff training.

Sponsors are required to review all sites within the first four weeks of operations with immediate correction of any deficiencies. Given that OIG's site visit was August 1, 2017 and the site had been open for meal service beginning July 5, 2017, the site staff did not follow procedures in making appropriate adjustments in meal ordering. Had procedures been followed, there would not have been a surplus of milk, thereby not requiring additional refrigerator food storage.

NYSED ensured that this site deficiency was corrected as the sponsor took immediate corrective action. Additionally, the sponsor notified NYSED that this site will not operate the Summer Food Service Program in the future. Any action plan targeted to this site is no longer applicable or actionable.

During the October 5, 2017 exit conference, FNS and NYSED strongly suggested that the finding and associated action plan to correct the issue be revised to reflect that the sponsor and site did not adequately monitor daily meal counts and adjust meal count ordering to accurately match average daily participation at the meal site. While OIG chose not to change the wording of the recommendation in the official draft report, NYSED kept with their normal process by pursuing corrective action with this sponsor that focused on the root cause of the finding by properly adjusting meal orders when needed. NYSED monitored the sponsor's implementation of the corrective action plan and validated that the actions taken were adequate for closure. FNS has already obtained corrective action documents supporting the immediate action taken by NYSED and is requesting closure of this recommendation upon issuance of OIG's final report.

**Estimated Completion Date:**

Complete as of October 19, 2017

**OIG Recommendation 2:**

Ensure that NYSED officials require the sponsor, as part of its corrective actions, to ensure that all sites it operates are in compliance with State and local storage and temperature requirements.

**FNS Response:**

FNS concurs with this recommendation. NYSED will provide training to all SFSP sponsors emphasizing the importance of adhering to Federal and State procedures in monitoring and managing daily meal counts to ensure sufficient meals are available to

serve every child one meal and with limited leftovers. This guidance and the procedures include compliance with State and local storage and temperature requirements. This action will prevent the need for additional, unnecessary refrigerator storage capacity for compliance with food storage temperatures. NYSED conducted additional monitoring of sites and all sites were in compliance with State and local food storage requirements.

**Estimated Completion Date:**

June 30, 2018

**OIG Recommendation 3:**

Ensure that NYSED officials monitor the site's correction of deficiencies and compliance with State and local food safety requirements.

**FNS Response:**

FNS concurs with the recommendation. As is the normal process when NYSED requires a corrective action plan to address findings in a review, NYSED will monitor the implementation of the sponsor's plan and the outcome of the changes to ensure correction on a permanent basis prior to the closure of the review.

Additionally, NYSED will conduct unannounced site visits at the sponsoring organization's sites to ensure compliance with the sponsor's standard operating procedures and to ensure compliance with State and local food storage and food temperatures.

**Estimated Completion Date:**

July 31, 2018

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