



United States Department of Agriculture



OFFICE OF INSPECTOR GENERAL



Texas' Controls Over Summer Food Service Program Interim Report

Audit Report 27004-0004-21 (1)

OBJECTIVE

The overall objectives of our ongoing audit are: (1) evaluate the adequacy of Texas' controls over SFSP sponsors, and (2) determine if selected sponsors and sites are in compliance with program requirements. This report provides interim results from our audit of SFSP and sponsor compliance with policies related to food safety requirements.

REVIEWED

We 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 those that received over \$100,000 in reimbursements for 2016. On June 9 and June 13, 2017, we visited two sites operated by a rural sponsor to determine if its sites complied with SFSP program requirements.

RECOMMENDS

FNS should follow up with TDA officials to ensure they require the sponsor to submit an action plan to correct food and storage temperature requirement deficiencies identified during our site visit, and to ensure that all its sites are in compliance with State and local food safety requirements.

OIG reviewed Texas' controls over the SFSP as well as sponsors compliance with food safety requirements.

WHAT OIG FOUND

The Summer Food Service Program (SFSP) provides nutritious meals to children from needy areas during the summer months. Locally, sponsors manage officials at sites that provide the meals to children. Sponsors include public or private nonprofit organizations. A site approved to serve summer meals to children did not have proper equipment available to maintain adequate food temperatures. The site held hot food in plastic coolers for more than three hours before serving lunch. As a result, this site's personnel risked serving contaminated food to children.

Federal regulations require that meals not prepared at the food service sites be delivered no earlier than one hour prior to the beginning of meal service unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State or local health regulations.

Texas State food safety regulations require that hot food be held at 135 °F or above before and during meal service. Although thermometers were available at the site, site staff did not use them to verify or ensure meals were the correct temperature before or during meal service.

Texas Department of Agriculture (TDA) officials agreed the site was out of compliance with State and local food safety requirements and agreed to require the sponsor to submit a corrective action plan to correct the deficiencies.

FNS 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: September 28, 2017

AUDIT
NUMBER: 27004-0004-21 (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: Texas' Controls over Summer Food Service Program – Interim Report

This interim report presents the results of the subject audit. Your written response to the official draft report, received on September 18, 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.

Your written response to the official draft report expressed concerns with some aspects of our report. Your concern, along with our comments on your concern, is listed below:

- 1. Pursuing a disallowance without concrete evidence of the issue would be outside normal TDA operating procedures and would likely create a situation for the State agency where a disallowance would not survive a legal challenge by the sponsor, as described in the exit conference held on August 22, 2017, which was attended by officials from OIG, FNS, and TDA.*

Brandon Lipps, Administrator

OIG Comment - Although taking the temperature of the food would have provided further assurance that food held in coolers were not within temperatures required by State and local requirements, observations made by our staff demonstrate that the meals served were not reimbursable based on Federal regulations.

Federal regulation require for meals not prepared on site to be reimbursable, the meals must be delivered no more than one hour prior to the start of the meal service. If meals are delivered more than an hour prior to the start of the meal service, the meals must be stored in equipment adequate to maintain the temperature of the food based on State and local requirements.¹ Our observations determined that 72 meals claimed by the sponsor for reimbursement did not meet either of the requirements required by Federal regulations for a reimbursable meal. First, we observed that the site violated the requirement to ensure meals are delivered no more than an hour before the start of meal service. The meals were delivered more than three hours prior to the start of the meal service.

Secondly, we observed the meals were not stored in equipment adequate to maintain required temperatures for hot food delivered more than an hour prior to the start of meal service. We reported that the 72 meals the site claimed for reimbursement were delivered in coolers not prepped to hold hot food. During our conversations with TDA officials, they stated that without the coolers being properly prepped, the coolers would not be considered adequate equipment to hold food hot more than an hour prior to meal service. Further, FNS guidance does not list coolers as an adequate facility to hold food hot more than an hour prior to meal service. In addition, the site did not have facilities available on-site to reheat the meals. We also observed that the film covering each individual meal did not contain any condensation to indicate that the meals were hot. The violations we observed and reported to TDA and FNS officials support that 72 meals claimed by the sponsor on the day of observation are not reimbursable based on Federal regulations.

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.

¹ 7 CFR 225.16

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Background and Objectives

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, Texas provided over \$38 million in SFSP reimbursements, making it the third largest State in the country, in terms of SFSP outlays, just behind New York and Florida.

The Texas Department of Agriculture (TDA) is the State agency responsible for administering SFSP in Texas. Besides disseminating State policy for the administration of SFSP, TDA is responsible for reviewing and approving sponsor applications, reimbursing sponsors for meals served to children at approved sites as well as monitoring to ensure sponsors and officials meet program requirements such as meal patterns and State and local food safety requirements.

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 located at schools, community centers, apartment complexes, etc. SFSP sponsors must enter into written agreements with TDA 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 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, New York, and Florida. The overall objectives of our ongoing audit are to (1) evaluate the adequacy of Texas' 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 policies related to food safety requirements.

Section 1: Food Safety

Finding 1: Inadequate Food Storage Equipment

An SFSP site approved to serve summer meals to children did not have proper equipment available to maintain adequate temperatures for food delivered hours before the start of meal service. State and local requirements for proper food temperature sites must maintain when holding food hot more than an hour before the start of meal service is 135 °F or above. However, the site held hot food (corndogs and tater tots) in plastic coolers for more than three hours before serving lunch. An official from the site's sponsoring organization, which contracted with a vendor to provide food at its sites, stated he believed temperature requirements to hold food hot were 70 °F. Therefore, the sponsor did not ensure adequate equipment, such as hot food holding cabinets or convection ovens, was available to hold food at the correct temperature before meal service. As a result, this site's personnel risked serving the children contaminated food.

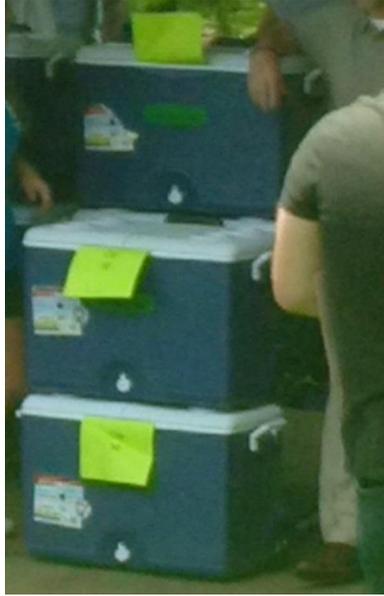
Federal regulations¹ require meals not prepared at the food service sites to be delivered no earlier than one hour prior to the beginning of meal service unless the site has adequate equipment for holding hot or cold meals within the temperatures required by State or local health regulations. Texas State and local health regulations require food to be maintained before and during meal service at 135 °F or above.² Likewise, FNS provides examples of equipment one could use to maintain the proper temperature: a hot food holding cabinet, a convection oven, or any other element designed to hold food hot for more than one hour before the start of meal service. Further, FNS requires site staff to make sure thermometers are available to check the temperature of food intended for consumption.

We visited two SFSP sites operated by a rural sponsor in Texas on June 9 and June 13, 2017, to determine if its sites complied with program requirements. At the first site, we observed the serving and consumption of a shelf-stable meal during lunch.³ We determined this meal site complied with local health codes. At the second site, however, we found that the vendor delivered meals intended for lunch to the site at 8:40 a.m. in plastic coolers designed to keep items cold (see photo below). We observed that the film covering each individual meal did not contain any condensation to indicate that the meal was hot. Further, the vendor did not make additional preparations for holding hot food in the plastic coolers designed to keep items cold, such as wrapping the food and lining the interior of the plastic coolers with aluminum foil, with towels, or with hot bricks. This site held the meals in the plastic coolers for more than three hours, until site officials served lunch at 12 p.m. Although thermometers were available at the service site, this site's staff did not use them to verify or ensure the meals were at the correct temperature before or during meal service. Further, the site officials did not have equipment to reheat the meals prior to serving them to children.

1 7 Code of Federal Regulations (CFR) § 225.16 (a) and 7 CFR § 225.16(c) (5).

2 The Hallsville, Texas, Code Enforcement Department enforces Texas State Laws to protect the health, safety, and welfare of its citizens. The State Food Safety Requirements in 25 Tex. Admin. Code § 228.75, state that temperature control for hot food holding should be 135 °F or above.

3 Shelf-stable foods are foods that can safely sit on the pantry shelf for at least one year and do not have to be cooked or refrigerated to eat safely.



This site risked bacteria growth by holding children’s hot meals in the plastic coolers for more than three hours.

FNS guidance describe food held within the range of 40 °F and 140 °F for longer than two hours as the “danger zone” for rapid bacteria growth and should be discarded.⁴ In our view, because the plastic coolers were designed to keep items cold and were not properly prepped for hot food holding, the plastic coolers were not adequate equipment to hold the required temperature for hot food delivered more than three hours before meal service. Because of the increased risk of bacteria growth on foods not maintained at the correct temperatures, we question the quality and safety of the 72 meals served by site staff on the day of our visit.

We discussed the deficiencies identified during our site visit with a sponsor official. That official was unaware of problems with the meal service at the site. The sponsor official stated the vendor’s contract specified that food be delivered no sooner than one hour prior to meal service. After we reviewed the contract, however, we found this was not a requirement between the vendor and the sponsor. Furthermore, the sponsor official believed the site complied with local health codes, stating that it was his understanding that food only had to be 70 °F at the time of meal service. In contrast, State and local health codes require food to be held at 135 °F or above. The sponsor believed its sites complied with local health codes because site officials did not notify the sponsor of any problems with vendor meals or deliveries. However, it is the sponsor’s overall responsibility to ensure its sites comply with State and local food safety requirements.

Given the lack of effective sponsor oversight and the risk of bacteria-contaminated food at the site, we notified TDA on June 29, 2017, of the problems identified during our site visit. TDA officials agreed that the sponsor’s site was out of compliance with Federal and State requirements and agreed to contact the sponsor immediately and require the sponsor to submit a

⁴ Summer Food Service Program’s 2016 Sponsor Monitor’s Guide, page 20.

corrective action plan to correct the deficiencies identified during our site visit. Additionally, TDA initially agreed that the meals served on the date of our visit were not reimbursable. We conclude, based on the sponsor not complying with requirements to have adequate equipment available to ensure food remain hot and safe for consumption, that TDA should recover \$275.94 for the 72 meals that we considered to be not reimbursable.⁵ FNS should follow up with TDA to ensure the site adequately corrected the problem and has complied with State and local food safety requirements.

Recommendation 1

Ensure that the Texas Department of Agriculture (TDA) officials require the sponsor to submit an action plan to correct food storage and temperature requirement deficiencies identified during our site visit.

Agency Response

In its September 18, 2017, response FNS stated:

FNS concurs with the recommendation. The TDA will require the sponsor in question to implement a corrective action plan to address the deficiencies identified by OIG during their site visit or any other deficiencies identified independently by TDA as part of their follow-up with this sponsor.

FNS provided an estimated completion date of December 31, 2017, for this action.

OIG Position

We accept FNS' management decision on this recommendation.

Recommendation 2

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

Agency Response

In its September 18, 2017, response FNS stated:

FNS concurs with the recommendation. As described in the response to recommendation 1, as part of a required corrective action plan the TDA will require this sponsor to provide additional guidance and/or training to all of its participating sites.

FNS provided an estimated completion date of December 31, 2017, for this action.

⁵ 2017 SFSP combined reimbursement rate for rural sites is \$3.8325 per meal.

OIG Position

We accept FNS' management decision on this recommendation.

Recommendation 3

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

Agency Response

In its September 18, 2017, response FNS stated:

FNS concurs with the recommendation. As is the normal process when a State agency requires a corrective action plan, TDA will monitor the sponsor's implementation of the corrective action plan and will document when the actions taken are adequate for closure.

FNS provided an estimated completion date of December 31, 2017, for this action.

OIG Position

We accept FNS' management decision on this recommendation.

Recommendation 4

Ensure the sponsor does not include as part of its claim for June 2017 the 72 meals that are not reimbursable. If the sponsor has submitted its June 2017 claim and has been reimbursed for the 72 unallowable meals, TDA should recover \$275.94.

Agency Response

In its September 18, 2017, response, FNS stated:

Although FNS and TDA agree with the finding in this report, as well as the intent of the recommendation, we do not agree with the recommendation as worded. As described in the exit conference held on August 22, 2017, which was attended by officials from OIG, FNS, and TDA, in situations such as this where food being held at the proper temperatures is in question, standard practice of the administering State agency when conducting monitoring visits is to take the temperature of the food and document those temperatures. Documentation of the temperatures is critical, because in cases where the food is found to be out of compliance with requirements the temperature reading is the evidence the State agency would need to support their meal disallowance should the sponsor choose to file an appeal per what is allowed by 7 CFR Part 225.13.

Despite OIG's concern that temperatures of the meals in question at the time of meal service were not in compliance with safety standards, no temperatures were actually taken. The normal protocol for TDA in such situations would be to have the temperature of the meals taken at the time of meal service. If the meals were not at required temperatures, TDA would not allow the sponsor to serve the meals, and they would subsequently not allow the sponsor to claim such meals for reimbursement. Without definite proof obtained by OIG that the meals in question fell outside proper temperatures, there is no basis to declare these meals as unallowable. And while FNS and TDA agree there was the potential for these meals to not be at the proper temperature, pursuing a disallowance without concrete evidence of the issue would be outside normal TDA operating procedures and would likely create a situation for the State agency where a disallowance would not survive a legal challenge by the sponsor.

In lieu of disallowing the 72 meals in question, FNS and TDA strongly agree that the sponsor in question needs to implement a corrective action plan to ensure food safety deficiencies do not continue to occur at any of the sponsor's sites. As noted in the responses to the other recommendations made by OIG, TDA will pursue corrective action with this sponsor, monitor their corrective action to ensure it is adequate, and on a broader scale, TDA will issue Statewide guidance to all SFSP sponsors emphasizing the importance of adhering to State and local food safety requirements.

FNS provided an estimated completion date of December 31, 2017, for this action.

OIG Position

We accept FNS' management decision on this recommendation. Although we believe there is Federal regulations that support the disallowance and recovery of the reimbursement for the meals in question, due to the minimal amount of the reimbursement and actions FNS agreed to take to address the food safety issue we observed, we defer to FNS to determine if they will recover payment for the meals in question.

Recommendation 5

Ensure TDA emphasizes the importance of adhering to State and local food safety requirements with all current sponsors.

Agency Response

In its September 18, 2017, response, FNS stated:

FNS concurs with the recommendation. The TDA will issue a memo/letter to all of their current SFSP sponsors that emphasizes the importance of adhering to State and local food safety requirements.

FNS provided an estimated completion date of December 31, 2017, for this action.

OIG Position

We accept FNS' management decision on this recommendation.

Scope and Methodology

We began fieldwork in Texas on May 2, 2017. We performed fieldwork at TDA’s office in Austin, Texas, and at two of the five non-statistically selected sponsors.⁶ Our audit focused on fiscal years 2014 through 2016. On July 3, 2017, we determined it was necessary to issue an interim report due to a sponsor’s lack of compliance with SFSP requirements.⁷ This is an interim report and our audit is ongoing.

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

- Reviewed applicable laws, regulations, and agency procedures concerning SFSP.
- Interviewed TDA officials regarding oversight actions implemented to ensure sponsors and sites complied with Federal and State program regulations and policies.
- Non-statistically selected five sponsors (in addition to alternates in case we dropped sponsors from our sample) 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,⁸ type of sites,⁹ and those who received more than \$100,000 in reimbursements for 2016.
- Non-statistically selected two “open” sites¹⁰ 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 food safety requirements.
- Developed three pro-forma worksheets to assist in reviewing TDA’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.

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 our conclusions on this area in our final report.

⁶ Sponsors were located in Harlingen and Tyler, Texas.

⁷ On June 13, 2017, we observed staff serving meals at one site that did not comply with food safety standards.

⁸ We selected one school food authority and four non-profit sponsors.

⁹ We selected sponsors that operated sites with the following characteristics: rural sites, urban sites, vended sites, and self-preparation sites.

¹⁰ 7 CFR § 225.1 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.

Abbreviations

FNS.....Food and Nutrition Service
OIG.....Office of Inspector General
SFSP.....Summer Food Service Program
TDA.....Texas Department of Agriculture
USDA.....United States Department of Agriculture

Exhibit A: Summary of Monetary Results

Finding	Recommendation	Description	Amount	Category
1	4	Sponsors did not ensure site maintained appropriate temperatures of meals.	\$275.94 ¹¹	Questioned Costs – Recovery Recommended
Total			\$275.94	

¹¹ The 2017 SFSP combined reimbursement rate for rural site is \$3.8325 per lunch. The site served 72 meals on the date of observation.

**USDA'S
FOOD AND NUTRITION SERVICE
RESPONSE TO AUDIT REPORT**

United States
Department of
Agriculture

Food and
Nutrition
Service

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Center Drive

Alexandria, VA
22302-1500



DATE: September 18, 2017

AUDIT

NUMBER: 27004-0004-21-1

TO: Gil H. Harden
Assistant Inspector General for Audit

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

SUBJECT: Texas' Controls Over the Summer Food Service Program (Interim Report)

This letter responds to the official draft report for audit number 27004-0004-21-1, Texas' Controls Over the Summer Food Service Program (Interim Report). Specifically, the Food and Nutrition Service (FNS) is responding to the five recommendations in the report.

OIG Recommendation 1:

Ensure that the Texas Department of Agriculture (TDA) officials require the sponsor to submit an action plan to correct food storage and temperature requirement deficiencies identified during our site visit.

FNS Response:

FNS concurs with the recommendation. The TDA will require the sponsor in question to implement a corrective action plan to address the deficiencies identified by OIG during their site visit or any other deficiencies identified independently by TDA as part of their follow-up with this sponsor.

Estimated Completion Date:

December 31, 2017

OIG Recommendation 2:

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

FNS Response:

FNS concurs with the recommendation. As described in the response to recommendation 1, as part of a required corrective action plan the TDA will require this sponsor to provide additional guidance and/or training to all of its participating sites.

Estimated Completion Date:

December 31, 2017

OIG Recommendation 3:

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

FNS Response:

FNS concurs with the recommendation. As is the normal process when a State agency requires a corrective action plan, TDA will monitor the sponsor's implementation of the corrective action plan and will document when the actions taken are adequate for closure.

Estimated Completion Date:

December 31, 2017

OIG Recommendation 4:

Ensure the sponsor does not include as part of its claim for June 2017 the 72 meals that are not reimbursable. If the sponsor has submitted its June 2017 claim and has been reimbursed for the 72 unallowable meals, TDA should recover \$275.94.

FNS Response:

Although FNS and TDA agree with the finding in this report, as well as the intent of the recommendation, we do not agree with the recommendation as worded. As described in the exit conference held on August 22, 2017, which was attended by officials from OIG, FNS, and TDA, in situations such as this where food being held at the proper temperatures is in question, standard practice of the administering State agency when conducting monitoring visits is to take the temperature of the food and document those temperatures. Documentation of the temperatures is critical, because in cases where the food is found to be out of compliance with requirements the temperature reading is the evidence the State agency would need to support their meal disallowance should the sponsor choose to file an appeal per what is allowed by 7 CFR Part 225.13.

Gil Harden

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Despite OIG's concerns that temperatures of the meals in question at the time of meal service were not in compliance with safety standards, no temperatures were actually taken. The normal protocol for TDA in such situations would be to have the temperature of the meals taken at the time of meal service. If the meals were not at required temperatures, TDA would not allow the sponsor to serve the meals, and they would subsequently not allow the sponsor to claim such meals for reimbursement. Without definite proof obtained by OIG that the meals in question fell outside proper temperatures there is no basis to declare these meals as unallowable. And while FNS and TDA agree there was the potential for these meals to not be at the proper temperature, pursuing a disallowance without concrete evidence of the issue would be outside normal TDA operating procedures and would likely create a situation for the State agency where a disallowance would not survive a legal challenge by the sponsor.

In lieu of disallowing the 72 meals in question, FNS and TDA strongly agree that the sponsor in question needs to implement a corrective action plan to ensure food safety deficiencies do not continue to occur at any of the sponsor's sites. As noted in the responses to the other recommendations made by OIG, TDA will pursue corrective action with this sponsor, monitor their corrective action to ensure it is adequate, and on a broader scale TDA will issue Statewide guidance to all SFSP sponsors emphasizing the importance of adhering to State and local food safety requirements.

Estimated Completion Date:

December 31, 2017

OIG Recommendation 5:

Ensure TDA emphasizes the importance of adhering to State and local food safety requirements with all current sponsors.

FNS Response:

FNS concurs with the recommendation. The TDA will issue a memo/letter to all of their current SFSP sponsors that emphasizes the importance of adhering to State and local food safety requirements.

Estimated Completion Date:

December 31, 2017

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