





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



DATE: June 5, 2018

AUDIT
NUMBER: 27601-0017-10

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: Maryland's Compliance with Requirements for the Issuance and Use of
Supplemental Nutrition Assistance Program Benefits (7 CFR, Part 274)

The attached report presents the results of an engagement to assess selected aspects of Maryland's compliance with the Supplemental Nutrition Assistance Program (SNAP) regulations. The assessment focused on compliance with the Code of Federal Regulations, Title 7, Part 274, *Issuance and Use of Program Benefits* (7 C.F.R. 274).

TFC Consulting, Inc. (TFC), an independent licensed Certified Public Accounting firm, was contracted by the Department of Agriculture (USDA), Office of Inspector General (OIG) to conduct an agreed-upon procedures engagement at Maryland and provide the Food and Nutrition Service (FNS) with recommendations to enhance program efficiency and effectiveness. The contract required TFC to perform the engagement in accordance with U.S. generally accepted government auditing standards (GAGAS). In connection with the contract, we reviewed TFC's report and related documentation and inquired of its representatives. Our review of TFC's report was different from an audit, in accordance with GAGAS, and was not intended to enable us to express, and we do not express, an opinion on Maryland's overall compliance with 7 C.F.R. 274. TFC is responsible for the enclosed agreed-upon procedures and recommendations report, dated April 12, 2018. However, our review of TFC's audit documentation did not disclose instances in which TFC did not comply, in all material respects, with GAGAS.

TFC reported that Maryland did not properly maintain exempt retailer agreements and ensure they contained the minimum required content, such as content regarding compliance with all

program regulations with respect to retailer participation in the program and treatment of SNAP households. TFC recommended FNS require the State maintain exempt retailer agreements such that agreements are obtainable within a reasonable time for inspection, audit, investigation, judicial proceedings, or other authorized purposes. TFC also recommended FNS require the State ensure all future exempt retailer agreements contain the minimum required content in the final executed agreement. FNS concurred with TFC's recommendations and OIG accepted management decision on the report's two recommendations.

Please note that the regulation requires final action 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 appreciated the courtesies and cooperation extended to us by members of your staff during TFC's fieldwork and subsequent discussions. This report contains publicly available information and will be posted in its entirety to our website (<http://www.usda.gov/oig>) in the near future.



TFC Consulting, Inc.

**Report on Applying Agreed-upon Procedures
for the USDA Office of the Inspector General
to Assess the State of Maryland's Compliance with
*7 CFR, Part 274 – Issuance and Use of Program Benefits***

Final





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April 12, 2018

Independent Accountant's Report on Applying Agreed-upon Procedures

TFC Consulting, Inc. (TFC), an independent licensed Certified Public Accounting firm, was contracted by the U.S. Department of Agriculture (USDA), Office of Inspector General (OIG), to conduct an *agreed-upon procedures* engagement to assess selected aspects of the State of Maryland's compliance with the Supplemental Nutrition Assistance Program (SNAP) regulations. The State of Maryland (Maryland or the State) was one of five States selected by the OIG for assessment during fiscal year (FY) 2018 based on the level of SNAP funding (small, medium, or large), audit history, and geographic location (the States were selected so that different Food and Nutrition Service (FNS) regions were represented in the assessment). The assessment focused exclusively on compliance with *Title 7 Code of Federal Regulation (CFR), Part 274, Requirements for Issuance and Use of Program Benefits*. This report presents the results of our assessment of Maryland.

We have performed the agreed-upon procedures which were developed by the OIG to evaluate compliance with *Title 7 CFR, Part 274*. The agreed-upon procedures were developed by the OIG to assess the State's compliance with targeted areas of *7 CFR, Part 274*. The procedures performed are provided in Appendix A of this report. The sufficiency of these procedures is solely the responsibility of the OIG. Consequently, we make no representation regarding the sufficiency of the procedures for which this report has been requested or for any other purpose.

This agreed-upon procedures engagement was conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS). We were not engaged to and did not conduct an examination or review, the objective of which would be the expression of an opinion or conclusion, respectively, on Maryland's compliance with *7 CFR, Part 274*. Accordingly, we do not express an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you. The primary scope period for this engagement was October 1, 2016 through September 30, 2017 (Federal FY 2017).

Our performance of the agreed-upon procedures disclosed one finding as follows:

1. The Maryland Department of Human Services (MD DHS) does not properly maintain exempt retailer agreements and ensure they contain the minimum required content – TFC tested a non-statistical sample of 13 exempt retailer agreements,¹ and identified six that were non-compliant.

¹ The population of exempt retailer agreements that were in effect during the scope period was 71.

The exempt retailer agreements are for retailers who, due to the nature of their business or clientele, receive free point-of-sale equipment to process Electronic Benefits Transfer (EBT) card transactions. Thus, the retailers are exempt from the equipment purchase, or are “exempt retailers.”

Federal regulation *7 CFR §274.3, Retailer Management*, states under *Retailer Agreements* that the State agency shall enter into an agreement with each authorized retailer. The retailer agreement shall describe the terms and conditions of participation in the SNAP EBT system, and include minimum required content.²³ Three weeks after our initial request for exempt retailer agreements, four were still not provided for our review. Further, two of the nine retailer agreements we were able to review did not contain the minimum required content.

Additional details concerning this finding, along with associated recommendations, are presented in Section 3 of this report. This report was prepared to present the results of our performance of the agreed-upon procedures specified by the OIG and is not suitable for other purposes. For any questions concerning this report, please contact Tashu Trivedi, TFC Engagement Partner at ttrivedi@tfcci.net.

Signed

TFC Consulting, Inc. /s/

² *7 CFR §274.3 (c) (1, 2, 3, and 4), 2011*

³ For example, one of the minimum requirements of the agreement is that it shall describe the terms and conditions with respect to equipment ownership.

1 Background

The Department of Agriculture's (USDA) Food and Nutrition Service (FNS) administers the Supplemental Nutrition Assistance Program (SNAP) – formerly known as the Food Stamp Program – providing nutrition assistance to over 42 million participants a month and paying benefits in excess of \$63 billion annually (fiscal year (FY) 2017).⁴ SNAP is the largest domestic hunger safety net program in the United States. FNS works with State agencies to ensure that those eligible for nutrition assistance can make informed decisions about applying for the program and can access benefits. FNS also works with State partners, the USDA's Office of Inspector General (OIG), and others to improve program administration and ensure program integrity.

SNAP is authorized by the Food and Nutrition Act of 2008, as amended.⁵ Regulatory authority for SNAP resides in the *Code of Federal Regulations (CFR), Title 7 CFR, Parts 271 through 283*. The focus of this agreed-upon procedures engagement was on *7 CFR 274 – Requirements for Issuance and Use of Program Benefits*.

FNS oversees the SNAP program at the Federal level from its headquarters in Alexandria, Virginia, and its seven Regional Offices (ROs). The ROs each serve several different States, and may include U.S. territories.

State offices, in turn, are responsible for overseeing local SNAP offices where applicants can apply for SNAP benefits, and in 42 States, applicants can also apply online. Each State uses its own application form and determines household eligibility and calculates benefits. In Maryland, the Department of Human Services (DHS) performs this function.

In FY 2016, Maryland issued \$1,079,151,904 in SNAP benefits serving an average of 388,957 households or 744,343 individual participants per month. Nationally, Maryland represents 1.62% of benefits, 1.68% of all SNAP participants, and ranked 21 out of 53 States and Territories in benefits issued.⁶

2 Objective and Purpose

The objective of this agreed-upon procedures engagement was to assess selected aspects of Maryland's implementation of *Title 7 CFR, Part 274, Issuance and Use of Program Benefits*. The assessment procedures associated with this engagement were developed by the OIG and performed under contract by TFC. The purpose of the assessment was to evaluate whether the State was properly administering the SNAP program in accordance with *Title 7 CFR, Part 274* requirements. Based on the results

⁴ SNAP National Level Annual Summary, Participation and Costs, 1969-2017, FNS, April 6, 2018.

⁵ SNAP was previously authorized by the Food Stamp Act of 1964 and later amended by the Food Stamp Act of 1977.

⁶ SNAP State Activity Report Fiscal Year 2016, FNS SNAP Program Accountability and Administration Division, September 2017.

of testing, if instances of non-compliance were identified, recommendations would be provided accordingly.

3 Finding and Recommendations

This section presents the one deficiency identified during our performance of the agreed-upon procedures identified in the State compliance checklist. Our recommendations to address the deficiency are also provided.

Finding 1: MD DHS does not properly maintain exempt retailer agreements and ensure they contain the minimum required content

We identified non-compliance with *7 CFR §274.3, Retailer Management*. We selected a sample of 13 exempt retailer agreements⁷ that were active during the scope period October 1, 2016 through September 30, 2017. We noted non-compliance with six exempt retailer agreements. Specifically, two agreements did not contain the minimum required content; and four agreements were not available for review within the requested timeframes.

Federal law requires that State agencies shall keep such records as may be necessary to determine program compliance, and records shall be available for inspection and audit at any reasonable time.⁸ Federal regulations require that State agencies enter into an agreement with each authorized exempt retailer. These agreements are for retailers who, due to the nature of their business or clientele, receive free point-of-sale equipment to process Electronic Benefits Transfer (EBT) card transactions. Thus, the retailers are exempt from the equipment purchase, or are “exempt retailers.” The exempt retailers include farmer’s markets, military commissaries, and similar organizations. The regulations also require that the retailer agreement describe the terms and conditions of participation in the SNAP EBT system,⁹ and include specified minimum requirements.

The retailer agreements were maintained by the MD DHS’ EBT contractor. The retailer agreements carry over from year to year and many of the samples we tested were executed several years ago.

On February 9, 2018, we requested MD DHS and its EBT contractor provide our test sample of 13 exempt retailer agreements for inspection by close of business February 12, 2018. On February 23, 2018, we received 2 of the executed agreements, and set a firm deadline of March 2, 2018 for the remaining 11 agreements. On March 2, 2018, we

⁷ The population of exempt retailer agreements that were in effect during the scope period was 71.

⁸ Food and Nutrition Act of 2008, (As amended through *Public Law 113-79* (also known as the Agriculture Act of 2014)), §2020 – Administration (a) (3) (B) (i), 2014.

⁹ *7 CFR §274.3 (c) (1, 2, 3, and 4)*, 2011.

received seven additional exempt retailer agreements. However, as of March 8, 2018, the final date of our fieldwork, we had not received the four outstanding agreements.

The EBT contractor informed us that most of the agreements were at an off-site archive for storage, and that attributed to delays in submitting the agreements. Specifically, the boxes with the relevant agreements had to be identified, transferred to the EBT contractor's location, and then provided to us for review.

For two of the nine exempt retailer agreements reviewed, we noted that the agreements were missing minimum required content. The EBT contractor sends the retailer a contract packet that contains various required sections/templates/signature pages, etc. For example, some of the required content includes: Retailer Settlement Authorization Form, the EBT Equipment Rider, IRS Form W-9, Retailer Agreement EBT Program Form, etc.). Both retailer agreements did not contain the following required items:

1. The procedures and policies for participation and withdrawal from the EBT system.
2. Content regarding compliance with all Program regulations with respect to retailer participation in the Program and treatment of SNAP households. This includes specific requirements with respect to the deployment of terminals and the identification of checkout lanes for SNAP customers.
3. The delineation of liabilities during system downtime and the associated responsibilities of each party with respect to the use of off-line and/or manually entered data, paper vouchers, and re-presented vouchers.
4. One or more required signatures.

Each one of these missing pieces is required by a different section of *7 CFR 274*. For example, number 1 above is a minimum requirement pursuant to *7 CFR 274.3 (c) (2)*. When we asked the EBT contractor why the sections were omitted from the executed agreement, we were informed that retailers were not required to return that with the executed contract packet. Therefore, we were unable to determine if the retailer reviewed and/or completed those required sections.

The State agency is not properly maintaining the exempt retailer agreements. If agreements are misplaced, or sections containing minimum required elements (key terms and conditions) are missing, the State may not be able to fully enforce the terms of the agreement; and exempt retailers may not be held liable for non-performance. Also, absent these agreements, State agencies, FNS, OIG, law enforcement, and other authorized personnel may not be able to execute their investigative, oversight, audit, or review duties and responsibilities.

FNS Recommendation 1

Require MD DHS to maintain exempt retailer agreements such that agreements are obtainable within a reasonable time for inspection, audit, investigation, judicial proceedings, or other authorized purposes.

Agency Response

In its May 17, 2018 response, FNS stated:

FNS concurs with the recommendation. The SNAP EBT contractor, Conduent, maintains the exempt retailer agreements on behalf of MD DHS. Effective April 1, 2018, Conduent enhanced its standard operating procedures whereby all materials related to new retailer agreements are being scanned eliminating the need for off-site storage and expediting retrieval of the agreements. MD DHS staff will send agreement retrieval requests to Conduent via email and the agreements will be provided between five business days and two weeks, dependent on if the agreements are scanned or stored offsite.

Estimated Completion Date: Complete as of April 1, 2018

FNS Recommendation 2

Require MD DHS to ensure that the six exempt retailer agreements identified as noncompliant and all future exempt retailer agreements contain the minimum required content in the final executed agreement.

Agency Response

In its May 17, 2018 response, FNS stated:

FNS concurs with the recommendation. Conduent implemented standard operating procedures which have been enhanced to ensure that all exempt retailer agreements contain the minimum required content and that the exempt retailers return a full copy of the executed agreement. Conduent will deem a retailer agreement incomplete if not returned in its entirety. The new procedure was implemented on April 1, 2018.

Updated retailer agreements will be sent by Conduent to the six exempt retailers identified as noncompliant. MD DHS will confirm that the updated agreements have been executed and will obtain documentation confirming the same.

Estimated Completion Date: Complete as of September 15, 2018

4 Scope and Methodology

The scope of this engagement was to assess aspects of Maryland's compliance with *Title 7 CFR, Part 274, Issuance and Use of Program Benefits*. The State of Maryland was one of five states selected for testing by the OIG based on non-statistical sampling that considered three criteria: 1) size of the State based on level of SNAP funding (small, medium, or large), 2) audit history, and 3) geographic location (States were selected so that different FNS regions were represented in the testing). The Maryland SNAP program is considered a medium program (SNAP payments issued between \$700 million and \$2 billion annually) by OIG and is located within FNS' Mid-Atlantic Region.

The engagement was performed by TFC in accordance with agreed-upon procedures developed by the OIG. The agreed-upon procedures are contained in the Checklist for Review of State's Compliance with *7 CFR, Part 274*, and specify detailed procedures to review the State's policies, procedures and processes, including non-statistical testing of targeted areas of *7 CFR, Part 274* compliance.

The Checklist is provided in Appendix A of this report and the finding we identified is noted for the applicable procedure in the checklist. The sufficiency of the checklist procedures is the responsibility of the OIG. Consequently, we make no representation regarding the sufficiency of the procedures for which this report has been requested or for any other purposes, nor do we provide an opinion on Maryland's overall compliance with *7 CFR, Part 274*. Had we performed additional procedures, other matters might have come to our attention that would have been reported.

The primary scope period for this engagement was October 1, 2016 through September 30, 2017. However, the period assessed varied for some procedures.

Various testing methods and techniques were employed in order to:

- Obtain an understanding of the State agency, its operations, systems, and operating environment;
- Test the State's compliance with *7 CFR 274* at a high level (e.g., policies and procedures); and
- Test compliance at a more granular level through selection of non-statistical samples for specific areas of *7 CFR 274* (see table 1.1 below).

Table 1.1 – Non-statistical Samples Selected

Description	Criteria	Population Size	Sample Size
Expedited Applicants	7 CFR 274.1	73,532	5
Exempt Retailer Agreements	7 CFR 274.3	71	13
Retailer EBT Data Exchange	7 CFR 274.3	103	26
Management Reports	7 CFR 274.4	29	12
Reconciliations	7 CFR 274.4	250	10
Replacement EBT Cards	7 CFR 274.6	160,198	38

Assessment fieldwork was performed at the Maryland headquarters of DHS in Baltimore, Maryland in January and February 2018. This agreed-upon procedures engagement was conducted in accordance with GAGAS.

Appendix A: Summary of Agreed-Upon Procedures and Results of State Compliance Testing

Checklist Procedures of State's Compliance And Results of Testing 7 CFR, Part 274		
7 CFR 274 Subsection	Agreed- Upon Procedures	Were exceptions found as a result of applying the procedure?
§274.1 Issuance System approval standards	For the Scope period, determine the following: a) Whether the State has a full on-line EBT system or an off-line EBT system.	No
§274.1 Issuance System approval standards	b) The name of the EBT contractor and the total EBT contractor costs that were reimbursed with Federal funds. Obtain documentation on the number of State monitoring reviews of EBT contractors, and the results.	No
§274.1 Issuance System approval standards	c) If the EBT contractor has subcontracted its assigned issuance responsibilities, and if so, whether the State approves those subcontracts.	No
§274.1 Issuance System approval standards	d) Whether the State has ensured and obtained an annual examination report by an independent auditor of the transaction processing of the State EBT service provider regarding the issuance, redemption, and settlement of Program benefits. The examination must be done at least annually and the report must be completed ninety days after the examination period ends.	No
§274.1 Issuance System approval standards	e) If the State has a current FNS-approved contingency plan in the event the EBT system were to shut down, short or long term.	No
§274.1 Issuance System approval standards	f) What SNAP Households information is maintained on the State's Master Issuance File?	No
§274.1 Issuance System approval standards	g) If the State had implemented procedures to verify against the State's master issuance file that applicants applying for expedited SNAP services are not disqualified from the program or are not currently receiving non-expedited SNAP benefits. If feasible, reconcile the State's reported total SNAP Household caseload to the number of Household records on the State's master Issuance File.	No
§274.2 Providing benefits to participants	a) Determine if the State has written procedures for providing EBT benefits to participants or whether that is the responsibility of the EBT contractor. b) Also determine for the scope period the number of Households and the related SNAP dollar benefits where the SNAP benefits were not redeemed for 3 months (i.e. Stale accounts).	No

Checklist Procedures of State's Compliance And Results of Testing 7 CFR, Part 274		
7 CFR 274 Subsection	Agreed- Upon Procedures	Were exceptions found as a result of applying the procedure?
§274.3 Retailer Management	<ul style="list-style-type: none"> a) Determine if the State has a written agreement signed by all parties (State and retailer) with each authorized retailer that is in accordance with the regulations. b) If the State is in compliance with the required use of the Retailer EBT Data Exchange (REDE) system. The State agency must access the REDE files to ensure that the FNS retailer files used to authorize valid EBT SNAP transactions are updated on a daily basis. 	Exception noted, reference Finding 1
§274.4 Reconciliation and Reporting	<ul style="list-style-type: none"> a) Determine whether the State has submitted management reports to FNS which document the retailer transaction data on a monthly basis. This data must be submitted in the specified format in accordance with the required schedule. b) Also, obtain documentation to demonstrate that the State has properly and timely reconciled all SNAP EBT Retailer transactions in accordance with regulations. 	No
§274.6 Replacement Issuances and cards to households	<p>Validate that the State has maintained EBT and EBT Contractor required information for the proper retention period (3 years). More specifically, determine for the Scope period if the State:</p> <ul style="list-style-type: none"> a) Maintained records on the Households that have requested replacement EBT cards and how often they have done so and how often the EBT card has been replaced with new benefits. b) Monitors and knows if the "lost" or "destroyed" EBT cards have been used to redeem their benefits. If so, obtain documentation of the State's system. c) Has a documented definition in Policy of the regulatory term "household misfortune." d) Has a maximum number of EBT replacement cards it will issue to any one Household in any one period of time, even though the regulations stipulate that there is no limit on the number of replacements of food purchased with Program benefits which was destroyed in a household misfortune. 	No
§274.7 Benefit redemption by eligible households	Determine how the State ensures that the EBT cards are only used by the SNAP approved Household and not anyone else.	No
§274.8 Functional and technical EBT system requirements	Determine through review of the State/EBT contractor agreement, technical guidance, or any other official source of information that the EBT contractor is meeting the functional requirements of the EBT system as required by regulations.	No

Appendix B: Leading Practices/Performance Improvement Opportunities

Our engagement was focused on reviewing the State's compliance with *7 CFR Part 274* requirements, and our formal recommendations only pertain to the aforementioned regulations. However, in performing our work, we also observed some potential performance improvement opportunities and leading practices. TFC offers the following observations for consideration:

Performance improvement opportunities

- Maryland DHS' Request for Proposals for EBT Contractor Services¹⁰, requires the Service Organization Control (SOC) II report to be issued within 45 days of the State's fiscal year end, or August 15. The report was dated October 23, 2017. We suggest the State consider monitoring the EBT contractor's SOC II auditor's reporting status to satisfy contract requirements and maintain timely reporting.
- There are several areas of *7 CFR 274* where the regulations have not kept pace with EBT systems, processes, practices, and vernacular. We suggest FNS consider reviewing *7 CFR 274* to identify areas that merit update.

Best practice

During our walkthrough with a caseworker, we noted that they made screenshots of some online verifications and uploaded those to Maryland's electronic document repository. They did this to supplement the case narrative, provide the subsequent case worker clearer and more effective documentation, and to save time. We believe this to be a leading practice and not something we had encountered in previous State reviews.

¹⁰ The State of Maryland Request for Proposals for EBT Contractor Services, page 388.

Appendix C: Glossary of Acronyms and Abbreviations

Acronym/Abbreviation	Definition
AUP	Agreed-upon Procedures
CFR	Code of Federal Regulation
DHS	Department of Human Services
EBT	Electronic Benefits Transfer
FNS	Food and Nutrition Service
FY	Fiscal Year
GAGAS	Generally Accepted Government Auditing Standards
MD	Maryland
OIG	Office of Inspector General
RO	Regional Office
SNAP	Supplemental Nutrition Assistance Program
SOC	Service Organization Control
TFC	TFC Consulting, Inc.
USDA	U.S. Department of Agriculture

Appendix D: Agency Response

**USDA'S
FNS
RESPONSE TO AUP REPORT**



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: May 17, 2018

AUDIT
NUMBER: 27601-0017-10

TO: Gil H. Harden
Assistant Inspector General for Audit

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

SUBJECT: Maryland's Compliance with 7 CFR, Part 274 – Issuance and Use of
Program Benefits.

This letter responds to the official draft report for audit number 27601-0017-10, Maryland's Compliance with 7 CFR, Part 274 – Issuance and Use of Program Benefits. Specifically, the Food and Nutrition Service (FNS) is responding to the two recommendations in the report.

OIG Recommendation 1:

Require MD DHS to maintain exempt retailer agreements such that agreements are obtainable within a reasonable time for inspection, audit, investigation, judicial proceedings, or other authorized purposes.

FNS Response:

FNS concurs with the recommendation. The SNAP EBT contractor, Conduent, maintains the exempt retailer agreements on behalf of MD DHS. Effective April 1, 2018, Conduent enhanced its standard operating procedures whereby all materials related to new retailer agreements are being scanned eliminating the need for off-site storage and expediting retrieval of the agreements. MD DHS staff will send agreement retrieval requests to Conduent via email and the agreements will be provided between five business days and two weeks, dependent on if the agreements are scanned or stored offsite.

Estimated Completion Date:

Complete as of April 1, 2018

OIG Recommendation 2:

Require MD DHS to ensure that the six exempt retailer agreements identified as noncompliant and all future exempt retailer agreements contain the minimum required content in the final executed agreement.

FNS Response:

FNS concurs with the recommendation. Conduent implemented standard operating procedures which have been enhanced to ensure that all exempt retailer agreements contain the minimum required content and that the exempt retailers return a full copy of the executed agreement. Conduent will deem a retailer agreement incomplete if not returned in its entirety. The new procedure was implemented on April 1, 2018.

Updated retailer agreements will be sent by Conduent to the six exempt retailers identified as noncompliant. MD DHS will confirm that the updated agreements have been executed and will obtain documentation confirming the same.

Estimated Completion Date:

September 15, 2018

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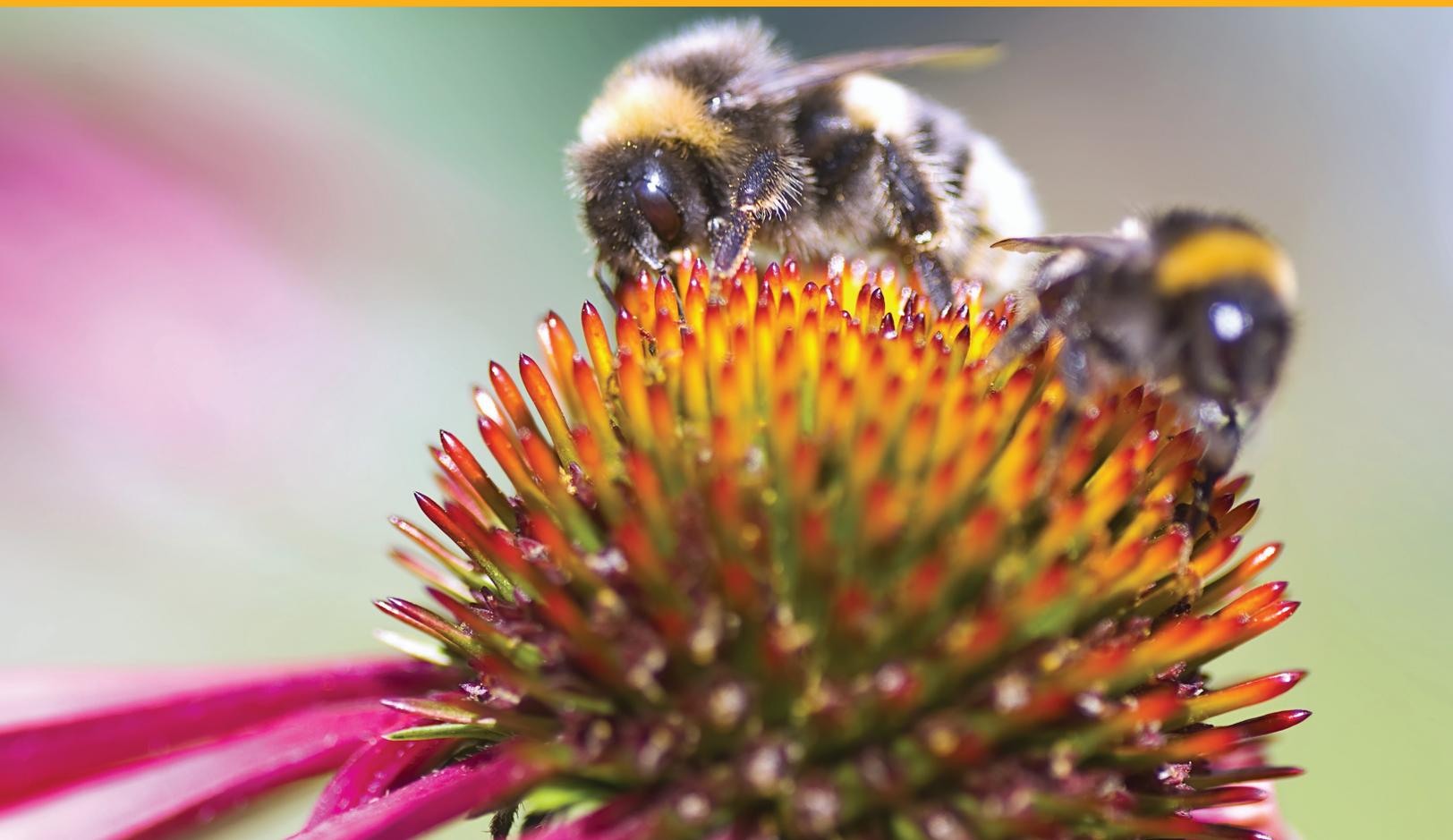
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