





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



DATE: September 28, 2018

AUDIT
NUMBER: 27601-0019-10

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

The attached report presents the consolidated results of an engagement to assess aspects of five selected States' compliance with the Supplemental Nutrition Assistance Program (SNAP) regulations.

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 (AUP) to assess aspects of five selected States' compliance with the Supplemental Nutrition Assistance Program (SNAP) regulations. TFC was also responsible for providing the Food and Nutrition Service (FNS) with recommendations to enhance program efficiency and effectiveness. TFC's assessments focused on Illinois, Iowa, Louisiana, Maryland, and Massachusetts' compliance with the Code of Federal Regulations Title 7, Part 274, *Issuance and Use of Program Benefits* (7 CFR, Part 274). The five State AUP engagements were conducted in accordance with U.S. generally accepted government auditing standards (GAGAS). Individual reports were issued for each State reviewed.

The objective of TFC's consolidated report is to summarize the findings and recommendations from the AUP engagements performed by TFC at the five States. In addition, TFC's consolidated report made additional recommendations to the Food and Nutrition Service (FNS) to enhance SNAP efficiency and effectiveness related to 7 CFR, Part 274. It should be noted that

TFC's consolidated report is not intended to be a GAGAS report; and there were no additional review procedures performed by TFC, beyond the agreed-upon procedures performed at the five States. 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 the five selected State's overall compliance with 7 CFR, Part 274.

TFC's consolidated report noted common noncompliances with SNAP regulations related to 7^oCFR, Part 274.3, *Retailer Management*. Specifically, TFC found that the five assessed States did not properly maintain exempt retailer agreements or ensure they contained the minimum required content. TFC recommended FNS require the State maintain exempt retailer agreements containing minimum required content, such that these agreements are obtainable within a reasonable time for inspection, audit, investigation, judicial proceedings, or other authorized purposes. TFC also recommended FNS review specific sections 7 CFR, Part 274 to determine which sections and/or related guidance merit revisions. FNS generally concurred with TFC's recommendations. OIG accepted FNS' management decision for the first two recommendations.

We do not accept management decision for the third recommendation. We agree with FNS' planned actions to review 7 CFR, Part 274 and associated guidance to identify areas that require update, revision, or improvement. However, in order to reach management decision, FNS needs to elaborate on its steps to proceed with any necessary modifications or revisions to the regulation, such as establishing a work plan.

In accordance with Departmental Regulation 1720-1, management decision must be reached on all recommendations within 6 months of report issuance. In addition, 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. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (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.

Consolidated Report on Applying Agreed-upon Procedures

for the USDA Office of the Inspector General

to Assess State Compliance with

7 CFR Part 274 – Issuance and Use of Program Benefits

Final Report





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August 23, 2018

1 Executive Summary

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 five States' compliance with the Supplemental Nutrition Assistance Program (SNAP) regulations. The OIG selected the five States to be assessed 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 Regulations (CFR) Part 274, Issuance and Use of Program Benefits*. The individual reports were issued following each State's fieldwork (see **Table 1.1**). This consolidated report presents a summary of the results from the five State engagements.

Table 1.1 provides an alphabetical list of the five State reports, and includes the report number and report date.

Table 1.1 Summary of Individual State Reports

State	Report Number	Report Date
Illinois (IL)	27601-0014-10	08/16/2018
Iowa (IA)	27601-0015-10	06/06/2018
Louisiana (LA)	27601-0016-10	07/19/2018
Maryland (MD)	27601-0017-10	04/12/2018
Massachusetts (MA)	27601-0018-10	04/26/2018

For each of the five States, we performed the agreed-upon procedures developed by the OIG to evaluate compliance with selected aspects of *Title 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.

The five agreed-upon procedures engagements were 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 the five States' 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 scope period for the five State reviews was October 1, 2016 through September 30, 2017 (FY 2017). Our fieldwork was performed at the State Agency headquarters or other designated State office locations during FY 2018.

This consolidated report presents a summary of the findings and recommendations from the five State reports. We note in preparing this consolidated report that there were no additional test procedures performed by us, beyond the agreed-upon procedures performed at the five States. While the five State agreed-upon procedures engagements were conducted in accordance with GAGAS, it should be noted that this consolidated report is not intended to be a GAGAS report.

Our performance of the agreed-upon procedures disclosed one finding that was found in each of the five States tested as summarized below:

1. *7 CFR §274.3 Retailer Management* – Federal regulations require that State agencies enter into an agreement with each authorized retailer. The retailer agreement shall describe the terms and conditions of participation in the SNAP Electronic Benefits Transfer (EBT) system, and include minimum required content. These agreements are for retailers who, due to the nature of their business or clientele, receive free point-of-sale (POS) equipment to process EBT card transactions. Thus, the retailers are exempt from the equipment purchase, or are “exempt retailers.” Examples of exempt retailers include farmer’s markets, military commissaries, and similar organizations. We identified five States with instances of non-compliance with their exempt retailer agreements, as follows:
 - a. The Illinois Department of Human Services (IL DHS) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content – TFC tested a non-statistical sample of 34 exempt retailer agreements,¹ and identified 25 that were non-compliant.
 - b. The Iowa Department of Human Services (IA DHS) did not provide two exempt retailer agreements for retailers that were active during the scope period – TFC tested a non-statistical sample of eight exempt retailer agreements,² and identified two that were non-compliant.

¹ The IL population of exempt retailer agreements that were in effect during the scope period was 154.

² The IA population of exempt retailer agreements that were in effect during the scope period was 24.

- c. The Louisiana Department of Children and Family Services (LA DCFS) did not provide one exempt retailer agreement for a retailer that was active during the scope period – TFC tested a non-statistical sample of eight exempt retailer agreements,³ and identified one that was non-compliant.
- d. The Maryland Department of Human Services (MD DHS) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content – TFC tested a non-statistical sample of 13 exempt retailer agreements,⁴ and identified 6 that were non-compliant.
- e. The Massachusetts Department of Transitional Assistance (MA DTA) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content – TFC tested a non-statistical sample of 36 exempt retailer agreements,⁵ and identified 16 that were non-compliant.

The specific finding and recommendation(s) for each State are presented in the five previously issued State reports (see **Table 1.1**). As this finding existed in each of the five states tested, we believe that this presents an opportunity for FNS to consider improvements for other States and Territories that were not within the scope of our testing. Thus, we are providing in this consolidated report three new recommendations that apply to all States and Territories. We also provide in this consolidated report our observation that several sections of *7 CFR, Part 274* require revision and/or update and provide a recommendation for FNS to review the regulation and revise and/or update as appropriate. The finding, observation, and new recommendations are discussed in greater detail in Section 5 of this report.

Table 1.2 below summarizes the new recommendations, including recommendation number, criteria, and the recommendation.

³ The LA population of exempt retailer agreements that were in effect during the scope period was 24.

⁴ The MD population of exempt retailer agreements that were in effect during the scope period was 71.

⁵ The MA population of exempt retailer agreements that were in effect during the scope period was 379.

Table 1.2: New Consolidated Report Recommendations

Recommendation Number	Criteria	Recommendation
1	7 CFR § 274.3	<p>Issue a clarification memorandum reiterating the importance of State compliance with 7 CFR §274.3, <i>Retailer Management</i>, with an emphasis that:</p> <ul style="list-style-type: none"> • The State agency must have an executed agreement between the State, (or it's agent, the EBT Contractor) and each Exempt Retailer • The agreement must contain the minimum required content • A new agreement must be timely executed when there is a vendor name and/or FNS number change.
2	Public Law 113-79*	<p>Issue a clarification memorandum to reiterate that State agencies (and their EBT Contractors) shall keep such records as may be necessary to determine program compliance (e.g., exempt retailer agreements), and records shall be available for inspection and audit within a reasonable time.</p>
3	Various (7 CFR §274.1, §274.3, et al.)	<p>Review 7 CFR, Part 274 and associated guidance to identify areas that require update, revision, or improvement and based on FNS' review, determine which sections and/or related guidance merit revision and initiate the process to revise, as deemed appropriate.</p>

* 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.

Please direct questions concerning this report to Tashu Trivedi, TFC Engagement Partner, at ttrivedi@tfcci.net.

2 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 (Federal FY 2017).⁶ 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, 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.⁷ Regulatory authority for SNAP resides in the *Code of Federal Regulations (CFR), Title 7 CFR, Parts 271 through 285*. The focus of this consolidated report and the agreed-upon procedures engagements performed at the five States was on *7 CFR, Part 274 - Issuance and Use of Program Benefits*.

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

State offices, in turn, are responsible for administering the program and overseeing local SNAP offices where applicants can apply for SNAP benefits. In 47 States, applicants can also apply online. Each State uses its own application form and determines household eligibility and calculates benefits.

To provide statistical context of the relative size of SNAP in each of the selected States, **Table 2.1** illustrates 2016 FNS SNAP and Census data. Data is presented by State, including: estimate of total State population; average monthly households and individual participation; total SNAP benefits issued; percentage of participants within the State's population; and relative ranking of the State's SNAP out of 53 States and Territories in terms of dollar amount of total issuance.

⁶ SNAP National Level Annual Summary, Participation and Costs, 1969 – 2017, FNS, July 6, 2018

⁷ SNAP was previously authorized by the *Food Stamp Act of 1964* and later amended by the *Food Stamp Act of 1977*. *The Food, Conservation, and Energy Act of 2008* renamed the *Food Stamp Act of 1977* to the *Food and Nutrition Act of 2008*.

Table 2.1: 2016 Statistical Data (Published September 2017 – most current available)

Statistical Information	Illinois	Iowa	Louisiana	Maryland	Massachusetts
Total State Population ⁸	12,835,726	3,130,869	4,686,157	6,024,752	6,823,721
Households Participating (Monthly) ⁹	996,092	178,874	422,090	388,957	450,364
Persons Participating (Monthly) ⁹	1,914,393	380,705	927,168	744,343	779,192
Total SNAP benefits Issued ⁹	\$3,040,976,772	\$507,597,206	\$1,494,495,292	\$1,079,151,904	\$1,189,716,303
Estimate of Percentage of Population Participating (monthly) ^{8,9}	14.91%	12.16%	19.79%	12.35%	11.42%
2016 Ranking of Program Issuance ⁹	5	34	12	21	18

3 Objective and Purpose

The objective of this consolidated report is to summarize the findings and recommendations from the agreed-upon procedures engagements performed by TFC at the five States. The objective of those agreed-upon procedures engagements was to assess selected aspects of the State’s implementation of *Title 7, CFR Part 274, Issuance and Use of Program Benefits*. The assessment procedures associated with these engagements were developed by the OIG and performed under contract by TFC. The purpose of the assessments was to evaluate whether the States were properly

⁸ U.S. Census Bureau Annual Estimates of Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2017 (2016 Population estimates used).

⁹ SNAP State Activity Report Fiscal Year 2016, FNS SNAP Program Accountability and Administration Division, September 2017. Rank is out of 53 States and Territories.

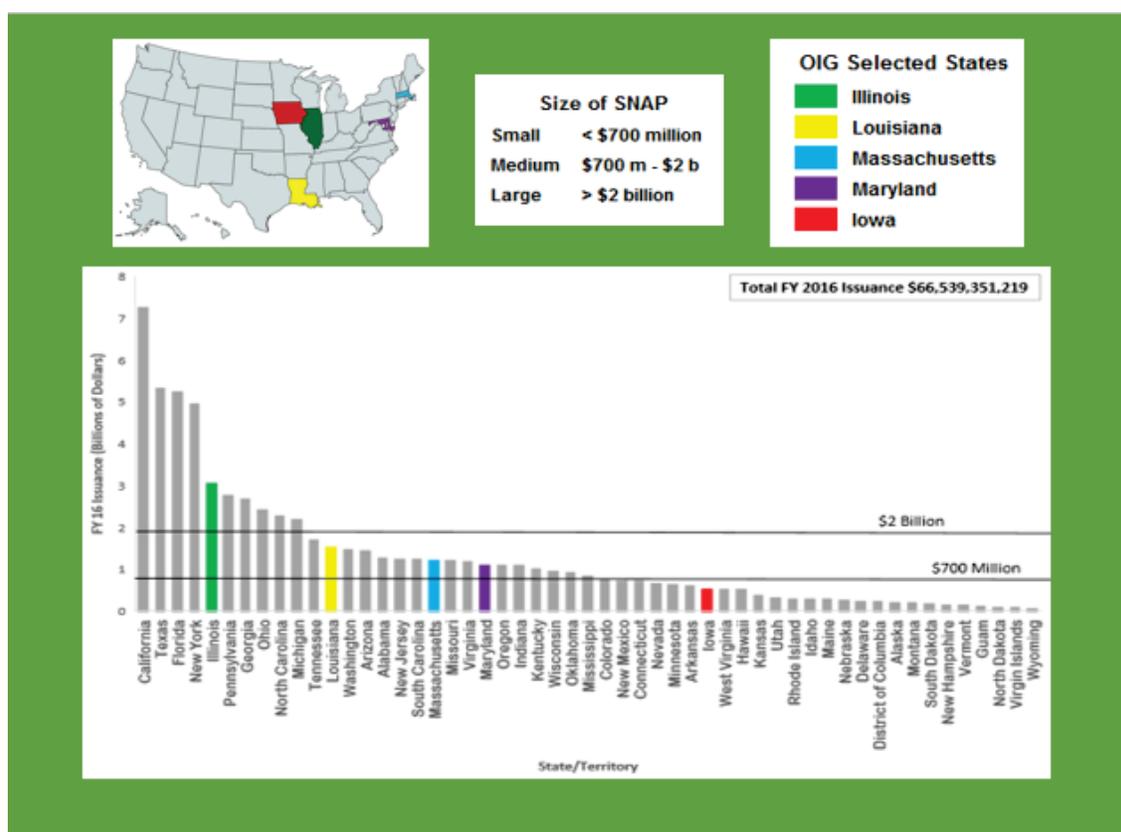
administering SNAP in accordance with *Title 7, CFR Part 274* requirements. Individual reports were issued pursuant to each State’s fieldwork and testing (see **Table 1.1**).

4 Scope and Methodology

TFC was contracted by OIG to assess selected aspects of each of five State’s compliance with *Title 7, CFR Part 274, Issuance and Use of Program Benefits*. Each of the five States was non-statistically selected for testing by the OIG based on three criteria: 1) size of the State based on the 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).

Exhibit 4.1: OIG Selection of the Five States: OIG Selection of the Five States is a histogram that illustrates the relative size of the State’s SNAP and highlights OIG selected States. The reference lines provide the boundaries separating the small, medium, and large size programs.

Exhibit 4.1: OIG Selection of the Five States¹⁰



¹⁰ SNAP State Activity Report Fiscal Year 2016, FNS SNAP Program Accountability and Administration Division, September 2017

The five State assessments were performed by TFC in accordance with agreed-upon procedures developed by the OIG. The agreed-upon procedures are provided in Appendix A of this report along with the finding noted for each applicable State and procedure. The sufficiency of the test procedures is the responsibility of the OIG. Consequently, we make no representation regarding the sufficiency of the procedures.

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 the five States' 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 scope period for the five State reviews was October 1, 2016 through September 30, 2017 (FY 2017).

In accordance with the agreed-upon procedures specified by the OIG, various testing methods and techniques were employed primarily to:

- Obtain an understanding of the State agencies, including their operations, systems, and operating environments;
- Test the State's compliance with *7 CFR, Part 274* at a high level (e.g., policies and procedures); and
- Test compliance on a more granular level through selection of six non-statistical samples for specific areas of *7 CFR, Part 274*, as follows:

Description	Criteria	Description	Criteria
1. Expedited Applicants	7 CFR §274.1	4. Management Reports	7 CFR §274.4
2. Exempt Retailer Agreements	7 CFR §274.3	5. Reconciliations	7 CFR §274.4
3. Retailer EBT Data Exchange	7 CFR §274.3	6. Replacement EBT Cards	7 CFR §274.6

Assessment fieldwork was performed at each State Agency headquarters or designated office location during FY 2018. Individual reports were issued pursuant to FNS and State agency review (**Table 1.1**). The five State agreed-upon procedures engagements were conducted in accordance with GAGAS, but it should be noted that this consolidated report is not intended to be a GAGAS report. This consolidated report presents a summary of the results of the five State assessments. In preparing this consolidated report, there were no additional test procedures performed by TFC beyond the agreed-upon procedures performed at the five States.

5 Findings and Recommendations

Our performance of the agreed-upon procedures disclosed one finding that was found in each of the five States as summarized in this section. The specific finding and recommendation(s) for each State are presented in the five previously issued State reports (see **Table 1.1**). As our fieldwork disclosed that this condition existed in each of the five states tested, we believe that this presents an opportunity for FNS to provide improvements for other States and Territories that were not within the scope of our testing, thus we are providing in this section two new recommendations that apply across all States and Territories. We also present in this section an observation and one new recommendation for FNS' to review sections of *7 CFR, Part 274* including the examples that we have identified as in need of revision and/or update.

Finding 1 – 7 CFR §274.3 Retailer Management – States Identified: IL, IA, LA, MD, MA

In testing compliance with *7 CFR §274.3, Retailer Management*, we selected non-statistical samples and identified findings in all five States: Illinois, Iowa, Louisiana, Maryland, and Massachusetts.

Federal law states 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.¹¹ Federal regulations require that State agencies 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 content¹². These agreements are for retailers who, due to the nature of their business or clientele, receive free point-of-sale (POS) equipment to process Electronic Benefits Transfer (EBT) card transactions. Thus, the retailers are exempt from the equipment purchase, or are “exempt retailers.” Examples of exempt retailers include farmer’s markets, military commissaries, and similar organizations.

The minimum required content for the retailer agreements include:

1. The terms and conditions with respect to equipment ownership, lease arrangements, handling and maintenance for which the State agency and merchant are liable.
2. The procedures and policies for participation and withdrawal from the EBT system.
3. The requirements that the agreement comply with program regulations with respect to retailer participation in the program and treatment of SNAP

¹¹ *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.*

¹² *7 CFR §274.3 (c), 2011*

households. This includes specific requirements with respect to the deployment of terminals and the identification of checkout lanes for SNAP customers.

4. 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.

The agreement should also be executed by the appropriate parties (e.g., the State agency and the retailer), or their agents (e.g., the EBT Contractor). The retailer agreements for all five States were maintained by the same EBT contractor. The retailer agreements carry over from year to year and the vast majority of the agreements we tested were executed years ago.

We identified findings in the five States, as follows:

a) The Illinois Department of Human Services (IL DHS) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content

We requested a complete listing of all exempt retailers that were active during the scope period, and received a population of 154 retailers. We selected a sample of 34 retailers, and requested the exempt retailer agreements for each. We found 25 retailer agreements that were non-compliant as follows:

- For six agreements, the EBT Contractor informed us that agreements executed and received prior to calendar year 2014 were located at an offsite storage facility and may be missing, and the agreements were not provided for inspection.
- For one agreement, the EBT Contractor informed us that the wrong agreement was erroneously provided. We requested the correct agreement on more than one occasion, but the agreement was not provided for inspection.
- For the last agreement, we noted that the FNS retailer name provided on the population listing did not coincide with the retailer name in the EBT system. The EBT Contractor informed us that there was also an error on this agreement and they were researching it. When we followed-up a second time, they failed to provide clarification or the agreement for inspection.
- For 17 of the remaining 25 exempt retailer agreements tested, we noted that the agreements were missing minimum required content (as described above).

b) The Iowa Department of Human Services (IA DHS) did not provide two exempt retailer agreements for retailers that were active during the scope period

We requested a complete listing of all exempt retailers who were active during the scope period, and received a population of 24 retailers. We selected a sample of eight

retailers, and requested the exempt retailer agreements for each. We identified two exempt retailer agreements that were non-compliant as follows:

- For the first agreement, the EBT Contractor could not locate the missing agreement and the State immediately took corrective action and executed a new agreement that was provided for testing during fieldwork. The newly executed agreement was dated April 12, 2018.
- For the second missing agreement, we noted that the FNS retailer name and number provided on the population listing did not coincide with the retailer name and number in the EBT system. We were informed that this was due to a retailer name change, and subsequent to our fieldwork, we were provided a copy of the executed new agreement dated May 21, 2018.

c) The Louisiana Department of Children and Family Services (LA DCFS) did not provide one exempt retailer agreement for a retailer that was active during the scope period

We requested a complete listing of all exempt retailers who were active during the scope period, and received a population of 24 retailers. We selected a sample of eight retailers, and requested the exempt retailer agreements for each. We found one retailer agreement that was non-compliant as follows:

- The EBT contractor was unable to locate the original agreement and a new agreement was executed in its place. The new agreement was executed on May 10, 2018.

d) The Maryland Department of Human Services (MD DHS) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content

We requested a complete listing of all exempt retailers who were active during the scope period, and received a population of 71 retailers. We selected a sample 13 retailers, and requested the exempt retailer agreements for each. We found six retailer agreements that were non-compliant as follows:

- For four agreements, the EBT contractor informed us that delays in obtaining the agreements were due to the agreements being maintained in an off-site archive for storage. The contractor explained that the boxes needed to be ordered, then they would have to wait for receipt, and then they would have to locate the appropriate agreements within the boxes. The agreements were not provided for inspection.
- For two exempt retailer agreements, we noted that they were missing minimum required content (terms and conditions).

e) The Massachusetts' Department of Transitional Assistance (MA DTA) did not properly maintain exempt retailer agreements and ensure they contained the minimum required content

We requested a complete listing of all exempt retailers who were active during the scope period, and received a population of 379 retailers. We selected a sample of 36 retailers, and requested the exempt retailer agreements for each. We found 16 retailer agreements that were non-compliant as follows:

- For one agreement, the EBT Contractor could not locate the missing agreement. The EBT contractor informed us that most of the agreements were at an off-site archive for storage, and that contributed 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 for inspection. The agreement was not provided for inspection.
- For 15 of the remaining 35 exempt retailer agreements inspected, we noted that the agreements were missing minimum required content.

Consolidated Analysis and Recommendation

All five States tested did not comply with the requirements of 7 CFR §274.3 – *Retailer Management*. Each State failed to provide at least one agreement for inspection, despite being provided an ample and reasonable timeframe. State agencies and the EBT Contractor also did not provide for inspection an agreement with each authorized retailer, which included the required terms and conditions of participation in the SNAP EBT system. The agreements for all five States were maintained by the same EBT Contractor, who also serves approximately 18 other States.

It should be noted that all instances of non-compliance identified were for agreements that were in effect during the scope period (FY 2017). Following our fieldwork in Maryland, the first State that we tested, the EBT Contractor represented that a new process had been implemented for handling exempt retailer agreements, and that the new process was designed to mitigate this type of noncompliance in the future. We did not test this new process, which is outside of the scope period of this engagement.

Recommendations to address the specific State findings are provided in the individual State reports (see **Table 1.1**). However, given the prevalence of the non-compliance related to exempt retailer agreements among the five States, and the number of States served by this EBT Contractor, we provide the following additional recommendations to FNS:

FNS Recommendation 1

Issue a clarification memorandum reiterating the importance of State compliance with *7 CFR §274.3, Retailer Management*, with an emphasis that:

- The State agency must have an executed agreement between the State, (or it's agent, the EBT Contractor) and each Exempt Retailer
- The agreement must contain the minimum required content
- A new agreement must be timely executed when there is a vendor name and/or FNS number change.

Agency Response

In its September 26, 2018 response, FNS stated:

FNS concurs with the recommendation and will issue a clarification memorandum to States as described.

Estimated Completion Date: December 31, 2018.

FNS Recommendation 2

Issue a clarification memorandum to reiterate that State agencies (and their EBT Contractors) shall keep such records as may be necessary to determine program compliance (e.g., exempt retailer agreements), and records shall be available for inspection and audit within a reasonable time.

Agency Response

In its September 26, 2018 response, FNS stated:

FNS concurs with the recommendation and will issue a clarification memorandum to States as described.

Estimated Completion Date: December 31, 2018.

Observation 1 – Updates are Required to 7 CFR §274

During the planning process of this engagement, we identified several areas of *7 CFR §274* from our OIG checklist procedures where we required FNS expert guidance and interpretation in order to successfully plan our fieldwork. We worked with FNS' Retailer

Policy and Management Division (RPM) to gain a better understanding of the compliance requirements underlying the areas of 7 CFR §274 we were testing, and the documentation required. During both the planning process, and the testing in the five States, we identified areas of 7 CFR §274 that were outdated or in need of revision as listed below.

We emphasize that this is a partial list that only reflects examples of areas of update and/or revision that we identified during completion of the agreed-upon procedures checklist, and should not be considered a comprehensive list of all we identified or all the updates and/or revisions that might be appropriate within 7 CFR §274.

1) **7 CFR §274.1(b), Review System Classification**, states that State agencies may issue benefits to households through an online or offline EBT system. All States operate an online EBT system and there are no offline systems. The last State to move to an online EBT system was Wyoming and it did so on May 29, 2007.¹³ This section should be updated, as it does not reflect the current operating environment.

2) **7 CFR §274.1(f)(2)(vi), Review contingency plan**, states the State agency shall submit a written contingency plan for FNS approval. The contingency plan shall contain information regarding the back-up issuance system that will be activated in the event of an emergency shut-down which results in short-term or extended system inaccessibility, or total discontinuation of EBT system operations. The contingency plan shall be incorporated into the State system security plan after FNS approval as prescribed at § 277.18(m) of this chapter.

During our testing, we initially had difficulty obtaining the “contingency plan,” until we learned that it was actually called the “Disaster Supplemental Nutrition Program” or “D-SNAP plan,” and it was a standalone document. This section should be updated to reflect the current operating environment.

3) **7 CFR §274.1(h), Master Issuance File**, states that the State agency shall establish a master issuance file which is a composite of the issuance records of all certified SNAP households. But what constitutes a master issuance file is unclear. FNS does not prescribe what data elements are in the master issuance file, nor do they prescribe its format. We spoke with dozens of State SNAP and systems personnel during the performance of our fieldwork and only one individual was able to articulate what they thought the term meant, but acknowledged neither they or any they worked with used the term. There are compliance requirements associated with this term which appears over a dozen times in 7 CFR §274 and in the following areas: 7 CFR §274.1(h), 7 CFR §274.4(c)(1), 7 CFR §274.5(c)(2), and 7 CFR §274.6(a)(7)(ii). These sections and/or the regulatory terminology, as well as the underlying compliance requirements should be reviewed, updated, and clarified as appropriate.

¹³ EBT Status Report by State, USDA FNS, July 17, 2008

4) **7 CFR §274.3(b)(1),(2), POS deployment** and **7 CFR §274.3(c)(3), Retailer agreements**, describe the requirements associated with retailer deployment of POS equipment to process EBT payments. The methodology and approach for retailer POS deployment as articulated in these areas of **7 CFR §274** were rendered obsolete by the 2014 Farm Bill. These sections should be updated accordingly.

5) **7 CFR §274.4(a), Reconciliations** – During our engagement planning, we consulted with RPMD on the compliance requirements contained in this section of the CFR. RPMD provided us a Reconciliation Guide that had been revised June 2005, but noted it was undergoing significant updates. They further noted that there have been changes in Federal reporting systems since this guidance was developed and the processes are now largely automated. This section of **7 CFR §274** should be updated to align with the FNS’ revised Reconciliation Guide and the current state of Federal reporting systems and processes.

6) **7 CFR §274.4(b)(2), Management Reports**, states that retailer transaction data is to be submitted to FNS on a monthly basis. This section refers to EBT retailer transaction data that was required to be submitted to FNS as monthly reports when the regulations were written. Since then, there have been system and process changes, and this is now a highly automated process. This data is now submitted by the EBT Processors to FNS via daily batch files. This section should be updated.

Consolidated Analysis and Recommendation

In recent years there have been significant changes that are not reflected in the regulations associated with the issuance and use of SNAP benefits. The changes stem from the *Food and Nutrition Act of 2008* (as amended through *Public Law 113-79* (also known as the *Agriculture Act of 2014*)) which has rendered some sections obsolete, and significant changes to Federal and State reporting systems and processes which have precipitated the need for regulatory revision. Given the number of areas in **7 CFR §274** where we observed that revisions and/or updates are needed, we provide the following recommendation to FNS in this consolidated report that was not previously included in the individual State reports.

FNS Recommendation 3

Review **7 CFR, Part 274** and associated guidance to identify areas that require update, revision, or improvement and based on FNS’ review, determine which sections and/or related guidance merit revision and initiate the process to revise, as deemed appropriate.

Agency Response

In its September 26, 2018 response, FNS stated:

FNS concurs with the recommendation and will review 7 CFR, Part 274 and associated guidance to identify areas that require update, revision, or improvement. Should updates, revisions or areas for improvement be identified, FNS will identify necessary regulatory modifications and assess their priority in the Agency regulatory queue. FNS will issue associated guidance if such regulatory changes are determined necessary.

Estimated Completion Date: September 30, 2019.

Appendix A: Summary of Test Procedures and Results for the Review of State Compliance

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 (Five States Tested)
§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 (Five States Tested)
§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 (Five States Tested)
§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 (Five States Tested)
§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 (Five States Tested)

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	f) What SNAP Households information is maintained on the State's Master Issuance File?	No (Five States Tested)
§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 (Five States Tested)
§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 (Five States Tested)

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	<p>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.</p> <p>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.</p>	Exception noted, reference Finding 1 (IL, IA, LA, MD, MA)
§274.4 Reconciliation and Reporting	<p>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.</p> <p>b) Also, obtain documentation to demonstrate that the State has properly and timely reconciled all SNAP EBT Retailer transactions in accordance with regulations.</p>	No (Five States Tested)

**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?
§274.6 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. 	<p align="center">No (Five States Tested)</p>
§274.7 Benefit redemption by eligible households	<p>Determine how the State ensures that the EBT cards are only used by the SNAP approved Household and not anyone else.</p>	<p align="center">No (Five States Tested)</p>

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?
§274.8 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 (Five States Tested)

Appendix B: Glossary of Acronyms and Abbreviations

Acronym/Abbreviation	Definition
CFR	Code of Federal Regulation
CPA	Certified Public Accounting/Accountant
DCFS	Department of Children and Family Services
D-SNAP	Supplemental Nutrition Assistance Program Disaster Plan
DHS	Department of Human Services
DTA	Department of Transitional Assistance
EBT	Electronic Benefit Transfer
FNS	Food and Nutrition Service
FY	Fiscal Year
GAGAS	Generally Accepted Government Auditing Standards
IL	Illinois
IA	Iowa
LA	Louisiana
MD	Maryland
MA	Massachusetts
OIG	Office of Inspector General
POS	Point-of-sale
RPMD	FNS Retailer Policy and Management Division
RO	FNS Regional Office
SNAP	Supplemental Nutrition Assistance Program
TFC	TFC Consulting, Inc.
USDA	United States Department of Agriculture

Appendix C: Leading Practices and Performance Improvement Opportunities

Our engagement was focused on testing State compliance with 7 CFR §274 requirements and our formal recommendations only pertain to the aforementioned regulations. However, in performing our work, we also observed some leading practices in use that may be beneficial to other States. TFC offers the following leading practices and performance improvement opportunities for FNS's consideration:

Leading Practices

- **Caseworker narration** – During our walkthrough with a caseworker in Maryland, we noted that they made screenshots of some online verifications and uploaded those to their electronic document repository. They did this to supplement the case narrative, provide the subsequent caseworker clearer and more effective documentation, and to save time. We believe this to be a leading practice and not something we had encountered in the other States.
- **SNAP Disaster Response** – During our testing in Louisiana, under 7 CFR 274.1, our testing included obtaining the State agency's FNS approved D-SNAP (disaster) plan for the scope period, which we did. In reviewing the D-SNAP, we noted it is a much more evolved and comprehensive plan compared to other State's plans that we have examined over the course of this contract year. The State agency has learned some hard lessons in the past after many notable disasters.

As an example, during Hurricane Ike (Ike), the State's IT system was overwhelmed by the surge in citizen's need for assistance. Following Ike, the State implemented controls to prevent recurrence of some of the problems they had experienced. Now they have practices and procedures in place to regulate demand, and moderate the disaster surge.

As another example, after another hurricane, the State agency became aware of some instances of fraud. Now, when a disaster is declared, the State agency institutes D-SNAP continuous auditing. For example, during a disaster, a weekly audit of blank EBT card stock inventories is performed. Inventories are audited and marked "audited" when counts are verified. If there is a discrepancy that cannot be resolved, escalation procedures require the Economic Stability Manager and the Financial Systems Unit be notified.

Other states may find the D-SNAP improvements included in Louisiana's plan useful as well.

- **The Smart Application** – The Louisiana smart application is dynamically driven and based on the service the client requests and the responses the client gives. For example, if a user does not request Medicaid, the system will not ask the user eligibility questions related to Medicaid. The application serves four

programs, including SNAP. But, from the client side, it is a single seamless application. On the back end, the application has many different tables and decision trees that facilitate the determination of eligibility.

The client accesses the application through the client portal, and when they submit the finished application, it goes to the caseworker's portal. The caseworker can access the application and uses the interview wizard to conduct the interview. Under this contract, we have inspected SNAP applications in other States, but have not seen this type of functionality. It is potentially more efficient and accurate, and thus we mention it as a leading practice.

Performance Improvement Opportunity

- **Exempt Retailer Contract Execution Dates** - The EBT contractor signs and dates agreements in advance of the exempt retailers, sometimes years in advance. We suggest that both parties execute the agreements contemporaneously, but the contractor allow the retailer to execute the agreement first. This will allow the contractor to review the retailer's executed agreement to confirm that changes to the agreement have not been made, and the State is not party to an incomplete or modified agreement.

Appendix D: Agency Response

**USDA'S
FNS
RESPONSE TO THE AGREED-UPON
PROCEDURES REPORT**



**United States
Department of
Agriculture**

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: September 26, 2018

AUDIT
NUMBER: 27601-0019-10

TO: Gil H. Harden
Assistant Inspector General for Audit

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

SUBJECT: Consolidated Report to Assess State Compliance with 7 CFR, Part 274 –
Issuance and Use of Program Benefits

This letter responds to the official draft report for audit number 27601-0019-10, Consolidated Report to Assess State Compliance with 7 CFR, Part 274 – Issuance and Use of Program Benefits. Specifically, the Food and Nutrition Service (FNS) is responding to the three recommendations in the report.

OIG Recommendation 1:

Issue a clarification memorandum reiterating the importance of State compliance with 7 CFR §274.3, Retailer Management, with an emphasis that:

- The State agency must have an executed agreement between the State, (or it's agent, the EBT Contractor) and each Exempt Retailer
- The agreement must contain the minimum required content
- A new agreement must be timely executed when there is a vendor name and/or FNS number change.

FNS Response:

FNS concurs with the recommendation and will issue a clarification memorandum to States as described.

Estimated Completion Date:

December 31, 2018

OIG Recommendation 2:

Issue a clarification memorandum to reiterate that State agencies (and their EBT Contractors) shall keep such records as may be necessary to determine program compliance (e.g., exempt retailer agreements), and records shall be available for

inspection and audit within a reasonable time.

FNS Response:

FNS concurs with the recommendation and will issue a clarification memorandum to States as described.

Estimated Completion Date:

December 31, 2018

OIG Recommendation 3:

Review 7 CFR, Part 274 and associated guidance to identify areas that require update, revision, or improvement and based on FNS' review, determine which sections and/or related guidance merit revision and initiate the process to revise, as deemed appropriate.

FNS Response:

FNS concurs with the recommendation and will review 7 CFR, Part 274 and associated guidance to identify areas that require update, revision, or improvement. Should updates, revisions or areas for improvement be identified, FNS will identify necessary regulatory modifications and assess their priority in the Agency regulatory queue. FNS will issue associated guidance if such regulatory changes are determined necessary.

Estimated Completion Date:

September 30, 2019

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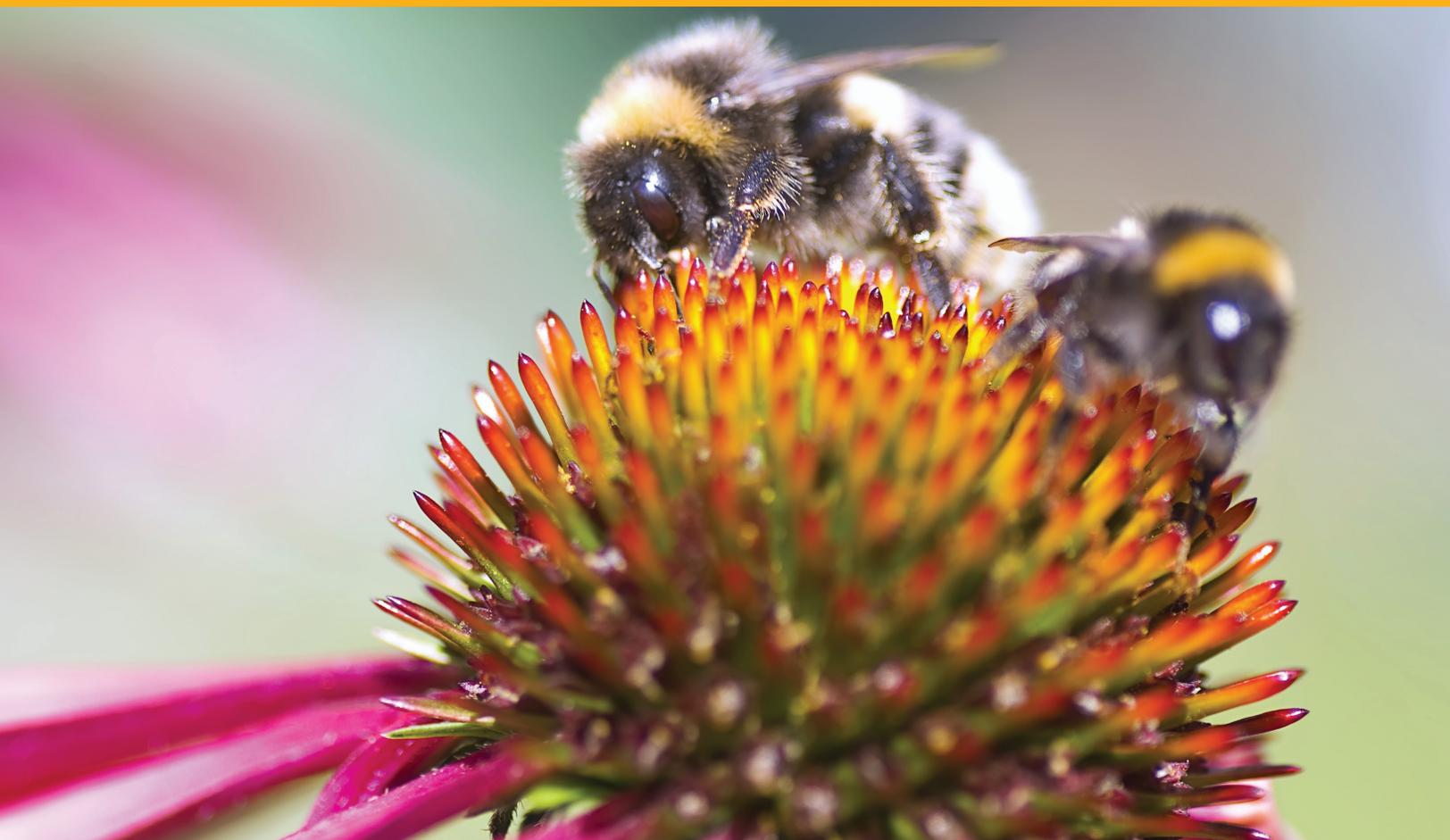
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