



U.S. Department of Agriculture
Office of Inspector General
Northeast Region
Audit Report

Food and Nutrition Service
National School Lunch Program Operations
New York City, New York



**Report No.
27010-28-Hy
September 2002**



UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INSPECTOR GENERAL
Northeast Region
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DATE: September 30, 2002

REPLY TO
ATTN OF: 27010-28-Hy

SUBJECT: Food and Nutrition Service
National School Lunch Program Operations
New York City, New York

TO: Frances E. Zorn
Regional Administrator
Northeast Region
Food and Nutrition Service

This report presents the results of the subject audit. Your September 11, 2002, response to the draft report has been incorporated into the final report and attached as exhibit F. The New York City Department of Education's September 20, 2002, response and the New York State Department of Education's September 19, 2002, response have also been incorporated into the report and attached as exhibit G and H.

We have a general agreement on the findings. To reach management decision, the Food and Nutrition Service needs to issue a Letter of Determination to the New York State Department of Education that identifies the actions to be taken and the planned completion dates. In accordance with Departmental Regulation 1720-1, please furnish a written reply within 60 days describing the corrective actions taken and/or planned along with the timeframes for implementing the corrective actions. Please note that the regulation requires a management decision be reached on all findings and recommendations within a maximum of 6 months from report issuance.

We appreciate the courtesies and cooperation extended to us by you and your staff during the audit.

/S/

REBECCA ANNE BATTS
Regional Inspector General
for Audit

EXECUTIVE SUMMARY

FOOD AND NUTRITION SERVICE NATIONAL SCHOOL LUNCH PROGRAM OPERATIONS NEW YORK CITY, NEW YORK

Audit Report No. 27010-28-Hy

RESULTS IN BRIEF

This report presents the results of the Office of Inspector General's (OIG) audit of National School Lunch Program (NSLP) operations, as administered by the New York City Board of Education, during school year (SY) 1998/1999. The Board of Education's Office of School Food and Nutrition Services (OSFNS) served as the local school food authority (SFA), the New York State Department of Education served as the State agency (SA), and the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) served as the funding agency. For SY 1998/1999 operations, the SFA received about \$204 million in FNS reimbursement and about \$8 million in SA reimbursement for serving over 115 million lunches.

We evaluated the SFA's meal accountability system and management controls that were designed to provide reasonable assurance as to the accuracy of its meal claims and reimbursement for SY 1998/1999. We observed over 23,000 meals served at 35 schools and analyzed 6,673 monthly meal claims. The meals served to children appeared to be fresh, wholesome, and appetizing. However, we found that required program management controls were not implemented, or were ineffective as implemented by the SFA, in preventing invalid payments. We concluded that material internal control weaknesses exist in the SFA's processes for validating eligibility for free and reduced-price meals, as well as for determining the reasonableness of the number of meals claimed for reimbursement. As a result, the SFA's application eligibility verification process does not provide reasonable assurance that children served meals were correctly classified as eligible for free or reduced-price meals and the SFA was entitled to the reimbursement received. Also, the SFA's edit check process did not provide reasonable assurance that each school was not claiming more meals served than children in attendance and the SFA's school monitoring visits were not adequate to identify and correct meal counting and claiming deficiencies.

We found the following material control weaknesses.

- The SFA's application eligibility verification process does not provide reasonable assurance that children served meals were correctly classified as eligible for free or reduced-price meals. Although the SFA generally met the regulatory requirement¹ for performing the verification process, SFA management did not take prudent corrective actions when a very large error rate was disclosed. For SY 1998/1999, the SFA's verification process determined that over 55.8 percent of the applications sampled had to be reclassified either because the household did not respond or the household response disclosed the original classification was in error. We believe that a 55.8 percent error rate must trigger additional corrective actions since the reimbursement provided by FNS is based upon the eligibility classification of each child. As a result, the potential exists for very large amounts of excess reimbursement if the applications are not correctly classified. Also, SFA management failed to initiate corrective actions when very high error rates were disclosed during its verification process in SY 1996/1997, 1997/1998, 1999/2000, 2000/2001, and 2001/2002.
- For those applications found to be in error during the eligibility verification process, the SFA did not establish controls to ensure the applications were corrected at the school level. We reviewed corrective actions at 23 of the 224 schools with applications tested during the process. We found 17 schools did not correct the applications and adjust meal claims. As a result, the SFA received excess reimbursement of \$18,932.
- The applications at 74 schools in the base-year of Provision 2 operations were not included in the sample of applications subject to the eligibility verification process. Provision 2 is an alternate meal counting and claiming procedure that allows a school to apply the percentages of free, reduced-price, and paid meals in the base-year to subsequent years' meal claims without requiring applications each subsequent year. Provision 2 can be extended in 4-year cycles, as long as socioeconomic conditions remain stable. Also, Provision 2 provides that the base-year applications are only subject to the verification process in the base-year. These 74 schools received reimbursement of about \$11.7 million.
- The SFA did not ensure children who had been properly determined eligible for free meals under direct certification procedures² were

¹ Title 7, CFR § 245.6a, dated January 1, 1998.

² FNS' Eligibility Guidance for School Meals Manual dated August 1991.

excluded from the verification universe and sample. As a result, the SFA's verification efforts were not targeted to those applications where income determines the level of assistance to be provided.

- The SFA did not perform the required average daily attendance to daily meal count edit check, by category (free, reduced-price, or paid), by school, to provide reasonable assurance that each school was not claiming more meals served than children in attendance. We performed a computer analysis of 6,673 monthly claims and found that in 1,647 claims, the schools appeared to have claimed over 590,000 meals valued at over \$982,210 were served in excess of children in attendance. Due to the incompatibility and inadequacy of the SFA's attendance records and meal service records to document what child eats at which school, neither we nor the SFA were able to substantiate actual overclaims in many cases. However, subsequent to our review, the SFA reviewed meal claim and attendance information for 14 schools that we had identified as having potential overclaims. For 130 monthly claims with potential excess reimbursement of over \$217,000, the SFA confirmed that at least 71 claims exceeded the number of children in attendance, for an excess reimbursement of at least \$120,210.
- The SFA did not timely or effectively monitor its schools' meal counting and claiming systems. The SFA did not assign sufficient resources to complete the reviews or establish controls that ensure corrective actions were taken on review findings.
- Applications used as a basis for calculating NSLP reimbursement for Provision 2 schools were not always retained for the duration of Provision 2 operations. OIG surveyed those 94 schools operating under Provision 2 for over 3 years. Only 21 schools confirmed applications were maintained to support the meal claims.

See exhibit A for the Summary of Monetary Results.

KEY RECOMMENDATIONS

In consultation with the SA and SFA, FNS needs to develop, and require the SFA to implement, an effective application eligibility verification process that will provide reasonable assurance that children approved for free or reduced-price meals are, in fact, eligible. If the SFA does not take timely action to implement management controls over the eligibility verification process, FNS should consider withholding administrative funding. FNS should also recover excess reimbursement of \$18,932 because applications were not corrected.

We also recommend that FNS direct the SA and SFA to perform an edit check using daily attendance and daily meal counts, by category, and develop controls that would follow up on potential problems and yield accurate meal claims. If the SFA does not take timely action to implement this edit check, FNS should consider withholding administrative funding. In addition, FNS needs to determine how much of the \$982,210 in potential excess reimbursement needs to be recovered. Further, to strengthen the onsite monitoring of school meal counting and claiming systems, FNS needs to direct the SA to require the SFA to establish a process that will provide more effective management controls for a large NSLP operation, including controls to ensure identified deficiencies are corrected. Adequate resources should be allocated and staff should be trained to ensure effective monitoring visits.

Finally, FNS should direct the SA to conduct a review to determine if Provision 2 schools are retaining applications in accordance with the SA guidance. If applications are not retained, require the SFA to take new applications prior to granting an extension of the Provision 2 period.

AGENCY RESPONSE

The September 11, 2002, response from FNS generally agreed with the findings and recommendations presented. On September 19, 2002, the SA responded that it is committed to insuring corrective actions that will result in improvement in the SFA's application, verification, and meal claiming procedures. The SA also responded that it supports efforts to ensure the fiscal integrity of the program and will collaborate with the SFA to ensure identified deficiencies are corrected. On September 20, 2002, the SFA responded that it is fully committed to addressing the three major concerns which call for strengthening the processes for verifying eligibility for free and reduced-price meals, submitting accurate meal reimbursement claims, and providing greater oversight of and accountability for schools' meal counting and claiming procedures. The SFA's response also provided several details of the planned corrective action. Applicable portions of these responses are incorporated, along with our position, in the Findings and Recommendations section of the report. The full text of the FNS, SA, and SFA responses are included as exhibits F, G and H, respectively, of the report.

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INTRODUCTION

BACKGROUND

On June 4, 1946, Congress passed the National School Lunch Act (42 U.S. Code 1751), which authorizes Federal school lunch assistance. The intent of the Act, as

amended, is to safeguard the health and well being of the Nation's children by providing them with nutritious foods and to encourage the domestic consumption of nutritious agricultural commodities and other foods. This is accomplished by assisting States, through grants-in-aid and other means, in providing an adequate supply of food and facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

FNS is the USDA agency responsible for administering the NSLP. FNS is headquartered in Alexandria, Virginia, and has seven regional offices nationwide. The FNS Northeast Regional Office, located in Boston, Massachusetts, is responsible for monitoring and overseeing operations in New York. Within New York, the New York State Education Department serves as the SA and is responsible for overseeing program operations within New York City. Within New York City, the New York City Board of Education's Office of School Food and Nutrition Services serves as the local SFA and is responsible for operating the NSLP in accordance with regulations. Each SA is required to enter into a written agreement with FNS to administer the NSLP and each SA enters into agreements with school districts to oversee day-to-day operations. The New York City SFA is the governing body that administered the NSLP in 1,292 public and 173 non-public schools as of June 1999.

The general NSLP requirements are codified in Title 7, Code of Federal Regulations (CFR) § 210. Requirements for determining eligibility for free and reduced-price meals and free milk are codified in 7 CFR § 245. In accordance with 7 CFR § 250, USDA also provides donated foods to SFAs to assist in operating the nonprofit lunch program. Generally, schools must collect applications on an annual basis from households of enrolled children and make annual determinations of their eligibility for free or reduced-price meals. These schools must also count the number of free, reduced-price, and paid meals served at the point-of-service on a daily basis. However, Section 111, Public Law 103-448, amended the National School Lunch Act to provide three alternative meal counting and claiming procedures: Provision 1, Provision 2, and Provision 3. A description of these alternative procedures follows.

- Provision 1 reduces the burden of application processing by allowing eligibility for free meal benefits to be certified for a 2-year period in schools where at least 80 percent of the children enrolled are eligible for free or reduced-price meals. Thus, applications are processed once every 2 years. Other operations are performed following traditional requirements.
- Provision 2 not only reduces the burden of application processing but also simplifies meal counting and claiming procedures. During the first or base-year under Provision 2, schools process applications and count meals in accordance with traditional requirements but provide all meals at no charge. However, during the next 3 years, the schools only count the number of meals served each day. Reimbursement is determined by applying the percentages of free, reduced-price, and paid meals claimed during the corresponding month of the base-year to the total meal count for the claiming month. After the base-year, schools do not obtain new applications or make new eligibility determinations for as long as the schools remain under Provision 2. However, the base-year applications continue to be the source data for the claims as long as the schools remain under Provision 2. At the end of the 4-year cycle period, Provision 2 may be extended for 4 more years if the income level, as adjusted for inflation, of the school's population has remained stable.
- Provision 3 significantly reduces the burden of application processing and meal counting and claiming procedures by allowing schools to receive a comparable level of cash assistance as received during the base-year. During the base-year, schools process applications and count meals in accordance with traditional requirements and serve meals at no charge, the same as for Provision 2 schools. However, for the next 4-years, the schools make no new eligibility determinations. The current year reimbursement is calculated by adjusting base-year reimbursement to reflect changes in enrollment and inflation. At the end of each 4-year cycle period, an additional 4-year extension may also be granted if the income level continues to remain stable.

As of June 1999, the New York City SFA operated under Provision 2 procedures at 375 schools and operated under traditional procedures at 1,090 schools. During SY 1998/1999, the SFA served over 115 million lunches: 39.6 million lunches or 34 percent of the total at Provision 2 schools and 75.4 million lunches or 66 percent of the total at the

traditional schools. The SFA received USDA and SA reimbursement of about \$204 million and \$8 million, respectively.

OBJECTIVES

The objective of this audit was to assess the adequacy of the SFA's meal accountability system and management controls designed to provide reasonable assurance as to the accuracy of meal claims in SY 1998/1999. To accomplish this, we evaluated: (1) the effectiveness of the SFA's eligibility verification process and determined whether the results of the process were used to improve program operations; (2) whether the base-year applications were retained as source documentation for those schools operating for more than 3 years under Provision 2; (3) the records used to approve extension of Provision 2 status at participating schools; (4) the effectiveness of SFA onsite monitoring of school meal counting and claiming systems; (5) the effectiveness of the edit checks applied to assure the reasonableness of each school's meal counts, and (6) whether each school we visited had adequate procedures to accurately count, record, and report the number of meals served to eligible children.

SCOPE

The scope of our review primarily covered NSLP operations for SY 1998/1999. The SFA received NSLP reimbursement of about \$204 million during this period for serving lunches at up to 1,465 schools per month. However, records for other periods were reviewed as deemed necessary. We performed audit work at the FNS Northeast Regional Office located in Boston, Massachusetts; the SA located in Albany, New York; and SFA offices located in Brooklyn, New York. Audit work was performed during the period April 1999 through April 2001.

We reviewed NSLP operations at 35 schools (see exhibit B) that served a high percentage of meals compared to enrollment to observe meal service and evaluate meal counting and claiming systems during April and May 1999. To select these schools, we analyzed claims for the first 4 months of SY 1998/1999 and identified 75 traditional public schools, 39 traditional non-public schools, and 94 Provision 2 schools that claimed meals served to an average of over 90 percent of the enrolled students during at least one month. We eliminated those schools that had enrollment of less than or equal to 100 for traditional public schools, 200 for traditional non-public schools, and 500 for Provision 2 schools. We limited our testing, while selecting schools with high NSLP participation from each category. We selected 29 traditional public schools, 3 traditional non-public schools, and 3 Provision 2 schools for onsite review. These schools claimed that 4,142,233 meals were served resulting in the SFA receiving NSLP reimbursement of \$7,785,350. We also evaluated the actions taken by

23 meal service sites that had been sampled as part of the SFA's application eligibility verification process to determine if eligibility errors had been corrected.

We analyzed 6,673 of the 14,527 monthly meal claims submitted by the schools to determine if meals claimed exceeded children in attendance. These claims resulted in reimbursement of over \$112.9 million. We were not able to analyze the remaining 7,854 monthly claims that resulted in reimbursement of over \$91 million due to problems with the quality and completeness of the Board of Education's attendance data. Therefore, our audit scope was impaired.

We projected the results of the SFA's random sample of applications tested in the application eligibility verification process to the SFA's reported universe of applications to determine the impact of the errors disclosed. We found the SFA's documentation of the universe of applications and the sample selection process supported the SFA's count of children reported eligible for free or reduced-price lunches and the number selected for testing.

Audit work was performed in accordance with generally accepted government auditing standards.

METHODOLOGY

To accomplish our audit objectives, we reviewed FNS, SA, and SFA regulations, policies, procedures, manuals, and instructions governing NSLP operations. We also reviewed the SA's most recent administrative review of the SFA's NSLP operations (conducted 1995) and the SFA's corrective actions taken in response to the administrative review findings and recommendations. The following audit procedures were also performed.

- We evaluated the SFA's application eligibility verification process and the actions taken to correct errors, when identified.
- We sent confirmation letters to the 94 schools operating under Provision 2 procedures for more than 3 years to determine if documentation (base-year applications) was maintained to support the claiming percentages used to calculate claims for reimbursement.
- We evaluated the socioeconomic data used to approve extensions of Provision 2 status after the initial period of authorization.

- We evaluated edit check controls used to assure the reasonableness of claims for reimbursement and calculated the financial impact when daily meal counts, by category, exceeded average daily attendance.
- We requested SY 1998/1999 attendance, enrollment, and average daily attendance data maintained by the New York City Board of Education. We were provided monthly data for about 1,200 schools. However, our use of this data was impaired due to the quality and completeness of the information. This data did not include attendance information for 173 non-public schools that operate the NSLP under the SFA's direction or attendance information for at least 250 traditional public schools that operated the NSLP. Further, the data provided included attendance data for 225 schools that did not operate the NSLP.
- We obtained monthly school claims for free, reduced-price and paid meals from the SA or the SFA. We were provided monthly claim data for up to 1,465 schools. We excluded from further analysis: (1) claims submitted for 375 Provision 2 schools because these schools do not count meals served, by category (Provision 2 schools report the total meal count and apply historical percentages to calculate the number of free, reduced-price, and paid meals served); (2) claims submitted for 172 non-public schools (one was already excluded as a Provision 2 school) because the average daily attendance information was not readily available on computer media from these schools; and (3) the claims submitted for at least 250 traditional public schools for which we were not provided corresponding attendance data.
- We analyzed comparable information on the attendance file and the claims file for an average of 667 schools each month and evaluated the reasonableness of 6,673 monthly claims. We calculated the maximum number of meals by category, for each claim; multiplied the number children enrolled, by category, by the average daily attendance for the month; and multiplied that product by the number of serving days during the month. We compared our calculated maximum monthly free, reduced-price, and paid meals with each school's monthly claim, by category.
- We reviewed SFA monitoring reports and interviewed SFA staff. We compared the SFA's monitoring reports with the results of our onsite reviews to determine whether similar problems were found and to evaluate the adequacy of corrective actions.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	REQUIRED MANAGEMENT CONTROLS WERE NOT IMPLEMENTED OR WERE INEFFECTIVE IN PREVENTING INVALID PROGRAM PAYMENTS
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The SFA's meal accountability system and management controls designed to provide reasonable assurance as to the accuracy of its meal claims in SY 1998/1999 were not implemented, or were ineffective as implemented. We concluded that material internal control weaknesses exist in the SFA's processes for validating eligibility for free and reduced-price meals, as well as for determining the reasonableness of the number of meals claimed for reimbursement. Further, we found major weaknesses in the SFA's monitoring of school counting and claiming systems and record retention at Provision 2 schools. These conditions occurred, in part, because the SFA misinterpreted or did not follow regulatory requirements. However, the SFA did not take prudent corrective actions when the application eligibility verification process identified material noncompliance. As a result, the SFA's application eligibility verification process does not provide reasonable assurance that children served meals were correctly classified as eligible for free or reduced-price meals and the SFA was entitled to the reimbursement received. Also, since applications found in error by the verification process were not corrected and more meals were claimed than children in attendance, the SFA received excess reimbursement of at least \$139,142.

FINDING NO. 1

SFA APPLICATION ELIGIBILITY VERIFICATION PROCESS DOES NOT MINIMIZE THE POTENTIAL FOR INVALID PAYMENTS

During SY 1998/1999, the SFA did not effectively implement the required application eligibility verification process to provide reasonable assurance that children served meals were correctly classified as eligible for free or reduced-price meals. Although the SFA generally met the regulatory requirement for sampling its applications, the SFA did not

take prudent corrective actions after a large error rate was disclosed. Over 55.8 percent of the applications sampled had to be reclassified either because the household did not respond or the household response disclosed the original classification was in error.

Federal regulations³ require the SFA to verify the information on a sample of applications by December 15 of each school year to ensure the validity of program payments. This regulation also authorizes the SFA to choose to verify up to 100 percent of all applications to improve program integrity. Regulations⁴ also state that if verification activities fail to confirm eligibility or the household fails to cooperate with verification efforts, the SFA shall reduce or terminate benefits, as applicable.

OIG reported problems with the integrity of the application eligibility verification process in Audit Report No. 27010-11-Ch, Verification of Applications in Illinois, issued in August 1997. Subsequently, FNS reported problems with the integrity of the verification determinations of applicant eligibility for free and reduced-price meals in the NSLP as a material program weakness in its 1999 and 2000 Federal Manager's Financial Integrity Act reports. To address this weakness, FNS announced pilot projects in January 2000, which would permit selected SFAs and SAs to test alternatives to the application procedures and verification process to reduce the misreporting of eligibility information.

We reviewed the SFA's application eligibility verification process to determine what corrective actions were being implemented by the SFA. We found the SFA attempted to perform the minimum number of verifications required by Federal regulation⁵ and did not take corrective actions when material noncompliance was disclosed (see Finding No. 2 for additional problems found with the SFA's verification process). This material noncompliance was also reported in New York City's 1997, 1998, and 1999 Single Audit reports.⁶ These Single Audits reported that 44.3 percent, 45.5 percent, and 51.3 percent of the applications tested for 1997, 1998, and 1999; respectively, were not eligible to receive free or reduced-price lunches based on the verification results. The Single Audits recommended that the SFA implement additional procedures to ensure the children deemed eligible for free or reduced-price meals were, in fact, eligible. However, the SFA chose not to perform any additional verification testing and/or implement additional management controls beyond the minimum required by Federal regulation. The error rate has continued to climb. The SFA's verification process identified a 59.5 percent error rate for SY 1999/2000, a 65.1 percent error rate for SY 2000/2001, and a 69.5 percent error rate for SY 2001/2002.

³ Title 7, CFR § 245.6a, dated January 1, 1998.

⁴ Title 7, CFR § 245.6a(e), dated January 1, 1998.

⁵ Title 7, CFR § 245.6a, dated January 1, 1998.

⁶ The Single Audit Act of 1984 (Public Law 98-502) and the Single Audit Act Amendments of 1996 (Public Law 104-156), as implemented by Office of Management and Budget Circular No. A-133, revised June 24, 1997; require annual agency-wide audits of local governments similar to the New York City Board of Education. The Circular provides guidance to auditors on how to conduct these agency-wide audits. These audits are referred to as Single Audits.

The SFA reported the following results of its SY 1998/1999 verification testing.

<u>Category</u>	<u>Number</u>	<u>Percent</u>
Free applications reclassified to the reduced-price category based upon a response	119	3.578
Free applications reclassified to the paid category based upon a response	80	2.405
Free applications reclassified to the paid category because no response was received	1,068	32.111
Reduced-price applications reclassified to the free category based upon a response	32	.962
Reduced-price applications reclassified to the paid category based on a response	86	2.586
Reduced-price applications reclassified to the paid category based on no response	<u>472</u>	<u>14.191</u>
Total applications with an error	1,857	55.833
Applications not requiring a change	<u>1,469</u>	<u>44.167</u>
Total	3,326	100.000

We believe that a 55.8 percent error rate must trigger additional corrective actions since the reimbursement provided by FNS is based upon the eligibility classification of each child. As a result, the potential exists for a very large amount of excess reimbursement if the applications are not correctly classified. Moreover, the SFA's lack of prudent corrective action in response to its verification results has a material impact on program integrity.

RECOMMENDATION NO. 1

In consultation with the SA and the SFA, develop and require the SFA to implement, an application verification process that will provide reasonable assurance that children determined eligible for free or reduced-price meals are, in fact, eligible.

FNS Response

FNS officials responded that they would ensure that the SA requires the SFA to fully comply with current regulations pertaining to verification.

SA Response

The SA officials agree with the recommendation, will ensure the SFA complies with current regulations, and suggest the SFA work more closely with eligible families to get them to produce needed documentation.

SFA Response

The SFA officials agreed that the verification results point to the need for action and will take steps to strengthen the eligibility and verification processes. To strengthen the verification process, the SFA proposed the following.

- (1) The SFA will use computer matching with the local welfare agency to identify the children who are eligible for free meals based upon direct certification procedures. These children will be excluded from the universe of applications to be tested.
- (2) The SFA will implement additional measures to obtain responses from the parents or guardians of children whose applications were sampled by supplementing the required letters with telephone calls and perhaps home visits.
- (3) The SFA will include all Provision 2 schools in the base year of operation and all other schools in the universe to be tested.
- (4) For schools that are selected, applications will be randomly sampled.

OIG Position

We are concerned that the SFA's proposed corrective actions may not provide reasonable assurance that children determined eligible for free or reduced price meals are, in fact, eligible. While the SFA's proposed corrective actions will improve the process, the SFA has not specifically proposed performing a statistically valid test or other testing designed to provide reasonable assurance.

By identifying children who are approved for free or reduced-price meals based upon applications in the computer system, the SFA can accurately identify and document the universe subject to verification. However, the

SFA's proposed corrective action for drawing the sample of applications to be tested is not clearly explained. The SFA responded that for schools selected, applications would be randomly sampled. This does not explain why or how the schools will be selected.

To reach management decision, FNS need to implement our recommendation by working with the SA and SFA to ensure that the SFA implements an application verification process that produces reasonable assurance concerning eligibility. Once reliable results are obtained, then the need for additional corrective actions can be assessed.

RECOMMENDATION NO. 2

Consider withholding administrative funds from the SA if the SFA does not take timely action to implement effective management controls over the application verification process.

FNS Response

FNS officials responded that, based upon communication with the SA, the SA understands the need for improvement at the SFA and has already been constructively engaged in corrections and improvements. If the SFA does not implement the improvements, FNS would consider withholding administrative funds.

SA Response

The SA officials responded that the SA would collaborate with the SFA to ensure that the application verification process is conducted properly. They also responded that this recommendation is not necessary to ensure corrective action by the SA.

SFA Response

The SFA officials responded that the measures taken and will be taken will fully meet OIG's concerns and there will be no need to withhold administrative funds.

OIG Position

To reach management decision, FNS needs to ensure that Recommendation No. 1 is implemented for SY 2002/2003. Otherwise, FNS should implement this recommendation.

FINDING NO. 2

CONTROLS OVER THE ELIGIBILITY VERIFICATION PROCESS NEED STRENGTHENING

SFA controls over the application eligibility verification process need to be strengthened. The SFA excluded applications at 74 of 86 Provision 2 schools in the base-year of operation in the sample of applications tested and did not ensure that children properly determined eligible on the basis of direct certification were excluded from the

verification sample and universe. Also, for those applications found to be in error, the SFA did not implement controls to ensure eligibility determinations were corrected and claims adjusted, at the school level. As a result, the effectiveness of the SFA's verification process for validating recipient eligibility is reduced. Also, the SFA received excess reimbursement of \$18,932 because applications found in error were not corrected.

Federal regulations⁷ require the SFA to verify the information on a sample of applications by December 15 of each school year to ensure the validity of program payments. The random sampling method used by the SFA requires the SFA to verify a minimum of the lesser of 3 percent or 3,000 applications. Also, regulations⁸ require the SFA to reduce or terminate benefits when the verification does not confirm the accuracy of the child's eligibility for the benefits. According to FNS' Eligibility Guidance for School Meals Manual, issued in August 1991, verification efforts are not required for children who have been determined eligible for free meals under direct certification procedures. Further, regulations⁹ provide that applications at Provision 2 schools not in the base-year of operation are not subject to the current year verification process.

For SY 1998/1999, the SFA reported a universe of 820,521 applications as of October 1998 and reported that 3,326 applications were included in the verification process. We reviewed the SFA's verification process and disclosed the following concerns.

- The SFA could not provide documentation that children determined eligible under direct certification procedures were excluded from the income verification process. Further, we could not determine, nor could the SFA provide evidence, that these children were excluded from either the verification universe or the sample. As a result, the SFA could not provide assurance that only non-direct certification

⁷ Title 7, CFR § 245.6a(a), dated January 1, 1998.

⁸ Title 7, CFR § 245.6a(e), dated January 1, 1998.

⁹ Title 7, CFR § 245.6a(a)(5), dated January 1, 1998.

applications were sampled for verification. Therefore, the verification process was not functioning as prescribed.

- The SFA did not include 41,203 free and 2,428 reduced-price applications at 74 of the 86 schools in the base-year of Provision 2 operations, in the sample of applications subject to verification. This occurred, in part, because the SFA limits its sample each year to approximately 25 percent of its schools. We were advised that this sampling methodology was put in place so that the sample at each school would be approximately 15 applications, rather than about two applications from each of over 1,460 schools. While this methodology appears acceptable for traditional schools, there is a potential adverse impact on schools operating under alternative meal counting and claiming systems (i.e., Provision 2). Regulations for Provision 2 schools require eligibility verification only in the base-year. Therefore, if a Provision 2 school, in its base-year is not included in the SFA's 25 percent sample, there is an increased risk that uncorrected errors in eligibility determinations can impact reimbursement for up to 10 years. These 74 schools received SY 1998/1999 reimbursement of \$11,709,849.
- The SFA did not establish controls to ensure that applications found in error during the verification process were corrected at the school level. We visited 23 of the 224 schools (10 percent) that were subject to the verification process during SY 1998/1999 to determine whether these applications were corrected in each school's meal counting and claiming process. The SFA tested 363 applications at these 23 schools (see exhibit C), and determined that 225 applications were in error. We found 17 schools did not correct 137 applications, or over 60 percent of those required to be corrected. This occurred, in part, because school level personnel did not take corrective action. However, our interviews with SFA officials also disclosed that they did not have controls to ensure the applications were corrected and claims adjusted, at the school level. We calculated an excess reimbursement of \$18,932 for January through June 1999.

The SFA's application eligibility verification process does not provide reasonable assurance that only those children eligible for free and reduced-price meals, in fact, receive them. Further, the SFA efforts were not targeted to applications where income and other data is used to determine the level of assistance provided.

RECOMMENDATION NO. 3

Provide guidance to the SA and SFA as to how direct certifications and Provision 2 schools are to be treated in the application eligibility verification process.

FNS Response

FNS officials agreed to implement this recommendation.

SA Response

The SA officials agree with the recommendation and will continue to provide guidance and direction to the SFA to ensure direct certification letters are excluded from the verification pool. The SA will also recommend that the SFA's verification process include base year Provision 2 schools.

SFA Response

The SFA responded that it would exclude children determined eligible for free meals under the direct certification process from the verification process and include the Provision 2 schools in the base year of operations in the verification process.

OIG Position

To reach management decision, FNS needs to provide the guidance.

RECOMMENDATION NO. 4

Require the SA to direct the SFA to establish an internal control process to ensure that applications found in error are corrected at the school level.

FNS Response

FNS officials agreed to implement this recommendation.

SA Response

The SFA officials agreed with the recommendation and will direct the SFA to establish internal controls to ensure all applications are corrected at the school level.

SFA Response

The SFA officials agreed to implement the recommendation.

OIG Position

To reach management decision, FNS needs to provide the agreed to guidance.

RECOMMENDATION NO. 5

Recover the excess reimbursement of \$18,932.

FNS Response

FNS officials agree to bill the SA for \$18,932 and establish an account receivable for that amount.

SA Response

The SA agreed with the recommendation and commented the claim is appropriate since the SFA did not make the required changes at the schools.

SFA Response

The SFA did not respond to the recommendation.

OIG Position

To reach management decision, FNS needs to bill the SA for the \$18,932 and establish an account receivable for that amount in its accounting records.

FINDING NO. 3

**AVERAGE DAILY ATTENDANCE
EDIT CHECK NOT PERFORMED**

During SY 1998/1999, the SFA did not perform the required average daily attendance to daily meal count edit check, by category, by school, to provide reasonable assurance that each school was not claiming more meals served than children in attendance. This occurred, in

part, due to the SA's misunderstanding of the circumstances that make this edit check mandatory. Also, the SFA officials were not aware of the need to perform this edit check control. To determine the effectiveness of, and need for this edit control, we performed an analysis of 6,673 monthly meal claims that resulted in reimbursement of over \$112.9 million. We

found that in 1,647 claims the schools appeared to have claimed over 590,000 more meals were served than children in attendance. Due to the incompatibility and inadequacies of the SFA's attendance records and meal count records, neither the SFA nor OIG could substantiate actual overclaims in many cases. However, the SFA did review detailed records for 131 claims and identified 71 claims were in excess of attendance. As a result, the SFA received excess reimbursement of at least \$120, 210.

According to regulations¹⁰ the SFA is to compare each school's daily counts of free, reduced-price, and paid lunches against the product of the number of children in that school currently eligible for free, reduced-price, and paid lunches, respectively, times an attendance factor. When this edit check identifies more meals were served than children in attendance, regulations¹¹ require the SFA to followup with the school and correct the claim before the SFA's monthly claim is submitted to the SA. This procedure is required¹² for any SFA that was identified as having Performance Standard 1 meal counting and claiming violations in its most recent SA administrative review. Performance Standard 1 requires¹³ that all free, reduced-price, and paid lunches claimed for reimbursement are served only to children determined eligible for those free, reduced-price, and paid lunches, respectively; and are counted, recorded, consolidated, and reported through a system which consistently yields correct claims. A violation exists when a SA finds the system used by a school does not consistently yield correct claims. During SY 1999/2000, the SFA received USDA donated foods in accordance with regulations¹⁴ at a rate of \$.1475 per meal claimed in SY 1998/1999.

The most recent SA administrative review of the SFA's NSLP operations (performed in 1995) reported Performance Standard 1 critical meal counting and claiming violations at 7 of the 78 schools tested and required a total of 25 schools to amend meal claims. Therefore, the SA should have required the SFA to implement the average daily attendance to meal count, by category, edit check. However, the SA did not require the edit check. This occurred because the SA officials believed that, if less than 10 percent of the schools had Performance Standard 1 violations, the SFA was not required to perform the cited edit check. The SA officials told us the edit check was not required because another regulation¹⁵ did not require the SA to perform a followup review if less than 10 percent of the schools had Performance Standard 1 violations. We discussed the SA's

¹⁰ Title 7, CFR § 210.8(a)(3)(i), dated January 1, 1998.

¹¹ Title 7, CFR § 210.8a(4), dated January 1, 1998.

¹² Title 7, CFR § 210.8(a)(2)(ii), dated January 1, 1998.

¹³ Title 7, CFR §210.18(b)(2)(i), dated January 1, 1998.

¹⁴ Title 7, CFR § 250, dated January 1, 1998.

¹⁵ Title 7, CFR § 210.18(i)(3)(i), dated January 1, 1998.

position with FNS officials. FNS officials disagreed with the SA's position and confirmed that the SFA should have performed the required average daily attendance edit check because the SA's review had disclosed Performance Standard 1 critical meal counting and claiming violations.

We reviewed the SFA's internal controls over meal counting and claiming and found the SFA performs edit checks to ensure that: (1) the daily count of meals served, by category, does not exceed approved applications on hand; (2) the total daily count of meals served does not exceed school enrollment; (3) the total daily count of meals served does not exceed average daily attendance; and (4) the total daily count of meals served equals the sum of the daily free, reduced-price, and paid meal counts. However, the SFA does not perform the required edit check that compares each school's daily count of free, reduced-price, and paid lunches, by category, against the product of the number of children in that school currently eligible for free, reduced-price, and paid lunches, respectively, times an attendance factor.

To determine whether this edit check would disclose meals were claimed in excess of children in attendance by category, we performed an analysis similar to that required by regulation. We compared, by computer analysis, the product of the average daily attendance percentage times the total number of serving days each month times the number of enrolled free, reduced-price, and paid category children; against monthly meal counts, by category, on an average of 667 schools for each month during SY 1998/1999. We were not able to perform this analysis on all monthly claims submitted by up to 1,465 schools due to lack of necessary information or problems with data incompatibility. Therefore, our review was impaired. However, from the data obtained, we were able to identify serious discrepancies in meal claims when compared to attendance records. We analyzed 6,673 of the 14,527 claims submitted by the schools. We found one or more inconsistencies on 1,647 claims or 25 percent of the claims tested. We found at least one questionable claim filed by 424 of the 667 schools tested. We found the following.

- Twenty percent or 1,346 claims, reported at least 485,000 more free meals served than children in attendance eligible for free meals. Three percent, or 185 claims, reported at least 5,000 more reduced-price meals served than children in attendance eligible for reduced-price meals.
- Four percent, or 279 claims, reported at least 100,000 more paid meals served than children in attendance without approved applications.

Our computer analysis determined the SFA could have overstated the number of meals served and the SFA could have received excess reimbursement totaling at least \$982,210. We also calculated the SFA could have obtained excess USDA donated foods valued at \$87,261 during SY 1999/2000 by overstating the number of meals served.

To substantiate our analysis results, we reviewed the meal counting and claiming process and information available to perform the required edit check at the 35 schools we visited. We found that the meal claim form the SFA requires schools to complete contains a section to report daily attendance. However, the schools did not always report or accurately report this information. Further, we noted that when the information was reported, it was not always input in the SFA's computer system. Therefore, the information provided to the SFA has not always been accurate or effectively used. We did find, however, that another source of daily attendance information is available from a database maintained by the Board of Education. While we found some inconsistencies in this data, it could be used to perform a daily attendance to daily meal count edit check, by category, at each school. At a minimum, it can be used as a management tool to identify potential problems at individual schools.

Our visits to 35 schools confirmed that 9 schools were, in fact, claiming meals served in excess of children in attendance, by category. For example, on May 19, 1999, we visited PS 249, a Provision 2 school. According to school records for May 19, enrollment was 1,082 children and 989 children were in attendance. The school claimed 1,034 lunches were served. Further, our count of meals served at the point-of-service disclosed the school served only 984 lunches. Therefore, the school overstated its meal count by 50 meals. Had the SFA performed the daily comparison of attendance to meal count, the excessive meal claim may have been avoided. Our analysis also disclosed this school claimed more meals served than children in attendance on 3 of 12 other days we tested.

Our analysis disclosed that 25 percent of the claims we tested reported more meals served than children in attendance, using monthly averages. Our onsite visits confirmed that 26 percent of those schools visited claimed more meals than children in attendance on a daily basis. Therefore, we concluded that the SFA needs to implement an effective control to detect and preclude schools from claiming more meals served than children in attendance, by category (free, reduced-price, and paid).

During subsequent meetings, the SFA officials questioned our computer analysis in situations where a school building housed more than one school for attendance purposes but recorded one combined meal count. During the audit, however, the SFA did not provide any listing of schools

where these situations existed. SFA officials acknowledged that no listing exists to perform a more accurate analysis. Subsequently, the SFA attempted to analyze 131 monthly claims from 14 schools with a potential overclaim valued at \$217,278.84. They confirmed that eight schools did not have children from any other school eating at their meal serving and counting site. We recognize that it could be a time consuming job to follow up at each of the remaining 416 schools. Therefore, we believe FNS needs to determine what additional follow up and corrective action is warranted on these potential overclaims.

RECOMMENDATION NO. 6

Require the SA to direct the SFA to accurately report daily attendance on their meal claim forms.

FNS Response

FNS officials responded that daily attendance data as part of the meal claim form is not required by regulations and to do so would require a change in the regulations for the national program. However, FNS can and will work with the SA and SFA to improve the SFA's current edit check process and verify the accuracy of attendance reporting, and could agree with a recommendation to that effect.

SA Response

The SA officials responded that they agreed, in part, with the recommendation. They agreed that the SFA should obtain accurate counts of reimbursable meals served on a daily basis. They also agreed that the SFA should perform an edit check that compares average daily attendance against meal counts. They also stated the regulations do not require comparisons with actual daily attendance records. The SA officials did agree that the SFA needs to improve its internal controls and the SFA will work with them to do so. The SA expressed concerns that this recommendation would require the SFA to adhere to a higher standard than other SFAs and could result in the SFA failing to submit its meal claims within required timeframes.

SFA Response

The SFA officials disagreed that they were required to perform the cited edit check. They did recognize that meal claims in excess of attendance can sometimes be attributed to over-counting student meals. The SFA response acknowledges the need for performance improvement in this area.

To resolve the audit finding, the officials responded that the SFA would implement an improved edit check, which will help detect instances in which meal claims may potentially exceed students in attendance, by school lunch category. The SFA will develop a “crosswalk” between attendance reporting sites and meal-claiming sites to identify maximum meal count allowability by meal claiming site. The SFA will also investigate cases where the meal claim in a category exceeds the attendance figure and when the number of meals claimed is not determined to be supported by attendance records the SFA will adjust the school’s claim.

OIG Position

FNS has confirmed that the SFA was required to perform the cited edit check. Therefore, the SFA should have developed and implemented an attendance to meal count edit check, pursued potential problem claims, developed the “crosswalk” now being developed, and followed up on each potential overclaim.

The FNS and SA comments that regulations do not require certain specific actions are correct. The regulations do, however, place the responsibility for establishing internal controls that ensure the accuracy of meal counts on the SFA. Implementing our recommendation will move the SFA closer to meeting this responsibility.

To reach management decision on this recommendation, FNS needs to provide the date by which the agency plans to implement our recommendation.

RECOMMENDATION NO. 7

Require the SA to direct the SFA to perform an edit check using daily attendance and daily meal counts, by category, and establish controls to provide accurate meal counts.

FNS Response

FNS agreed that improvements in meal counting and claiming as well as edit check controls should be made, but stated that FNS has no regulatory basis to require a remedy that compares actual daily attendance to meal counts. FNS agreed to suggest this to the SA and SFA as a good business practice and will work with the SA to direct the SFA to improve the current meal counting and claiming process as well as edit check controls.

SA Response

The SA officials responded that they agreed, in part, with the recommendation. They agreed that the SFA should obtain accurate counts of reimbursable meals served on a daily basis. They also agreed that the SFA should perform an edit check that compares average daily attendance against meal counts. They stated the regulations do not require comparisons with actual daily attendance records. The SA officials did agree that the SFA needs to improve its internal controls. The SA expressed concerns that this recommendation would require the SFA to adhere to a higher standard than other SFAs and could result in the SFA failing to submit its meal claims within required timeframes.

SFA Response

The SFA officials responded that they will be implementing the recommendation and the details of their plan are outlined in their response to Recommendation No. 6.

OIG Position

The FNS and SA comments that regulations do not require certain specific actions are correct. The regulations do, however, place the responsibility for establishing internal controls that ensure the accuracy of meal counts on the SFA. Implementing our recommendation will move the SFA closer to meeting this responsibility.

To reach management decision on this recommendation, FNS needs to provide details of how it will work with the SA to direct the SFA to improve the current meal counting and claiming process as well as edit check controls.

RECOMMENDATION NO. 8

If the SFA does not take timely action to implement this edit check, consider withholding administrative funding from the SA.

FNS Response

Based on FNS communications with the SA officials, the SA understands the need for improvement and has already been constructively engaged in corrections and improvements. If the SA was not, at some point FNS would consider withholding administrative funds. FNS officials responded that they do not believe this recommendation is necessary to ensure SA action with regard to this audit.

SA Response

The SA will collaborate with the SFA to obtain accurate counts of reimbursable meals. If the meal counting and claiming processes improve, the discrepancies disclosed by edit checks should be greatly reduced. The SA concurred that edit checks are a useful internal control and support a comparison of daily counts against average daily attendance. The SA also does not believe this recommendation is necessary to ensure SA action with regard to this audit.

SFA Response

The SFA is planning to perform an edit check that compares daily meal counts, by category, to the daily attendance records by child's eligibility category.

OIG Position

To reach management decision, FNS needs to ensure Recommendation No. 7 is implemented for SY 2002/2003. Otherwise, FNS should implement this recommendation.

RECOMMENDATION NO. 9

Determine how much of the \$982,210 in potential excess reimbursement needs to be recovered.

FNS Response

FNS officials agreed with this recommendation.

SA Response

The SA officials agreed with the recommendation.

SFA Response

The SFA agreed to have FNS determine how much of the potential excess reimbursement should be recovered.

OIG Position

To reach management decision, FNS needs to implement the recommendation, bill the SA for the amount owed, and establish an account receivable for that amount.

RECOMMENDATION NO. 10

Determine how much of the \$87,261 in potential excess donated foods needs to be recovered.

FNS Response

FNS officials stated they agree with this recommendation.

SA Response

The SA agreed with the recommendation.

SFA Response

The SFA agreed to have FNS determine how much of the potential excess reimbursement should be recovered.

OIG Position

To reach management decision, FNS needs to implement the recommendation, bill the SA for the amount owed, and establish an account receivable for that amount.

FINDING NO. 4**SFA MONITORING OF MEAL
COUNTING AND CLAIMING
SYSTEMS NEEDS IMPROVEMENT**

During SY 1998/1999, the SFA did not timely or effectively monitor its schools' meal counting and claiming systems. The SFA did not timely complete 350 of 1,610¹⁶ required onsite reviews. The SFA did not assign sufficient staff to complete the reviews or establish controls to ensure corrective actions

were taken on its review findings. As a result, the SFA has not implemented effective controls to provide reasonable assurance that the schools were reporting accurate meal counts, by category. Further, our onsite visits to 35 schools confirmed ongoing problems with meal counts and claims.

Regulations¹⁷ require the SFA to perform an onsite monitoring review of the meal counting and claiming system used at each school under its jurisdiction annually, by February 1. The regulation also requires the SFA to: (1) ensure that each school found to have meal counting and claiming deficiencies implements corrective action; and (2) conduct an onsite

¹⁶ Even though claims were filed for no more than 1,465 meal service sites in any month during SY 1998/1999, the SFA records and statements showed they had to perform 1,610 visits.

¹⁷ Title 7, CFR §210.8(a)(1), dated January 1, 1998.

followup review to determine whether the problem(s) have been resolved within 45 days.

Our interviews with SFA staff disclosed that the SFA employs 10 monitors to perform the required onsite visits to 1,610 meal service sites and that each monitor is expected to visit two schools per day. Since about 90 meal service days occur prior to February 1, the potential existed for the SFA to complete the reviews by the required date if each monitor visited two schools per day. However, as of January 28, 1999, only 1,260 visits were completed. Consequently, 350 visits were not completed by the regulatory deadline.

Our onsite visits to 35 schools found problems similar to those found during the SFA monitoring reviews and/or disclosed problems with meal counts and claims that the monitors had not identified (see exhibit D). Examples of the problems noted during our onsite visits follow.

- Nine schools claimed more meals served some days than children in attendance, by category. The SFA monitoring visits to these nine schools did not disclose this problem.
- No point-of-service meal count was performed at 21 schools. The SFA monitors did not disclose this problem at 14 of these schools.
- School source meal count documentation did not agree with the daily meal count submitted to the SFA at 18 schools. The SFA monitors did not disclose this problem at 6 of these schools.

We also found the SFA's monitoring visits and followup performed did not ensure each school having meal counting and claiming deficiencies implemented adequate corrective action. According to the SFA staff, school principals are responsible for following up on problems disclosed. However, we did not find this delegated responsibility in writing. Examples of the lack of corrective action follow.

- The SFA monitors disclosed no point-of-service meal count at 12 of the schools we visited. Our onsite visits disclosed this problem was continuing and no corrective action had been implemented at 7 of these 12 schools.
- The SFA monitors disclosed that school source meal count documentation did not agree with the daily meal count submitted to the SFA at 16 schools we visited. Our onsite visits disclosed no corrective action had been implemented at 12 of these 16 schools.

Since the SFA did not complete the reviews timely, did not disclose serious problems, and did not obtain needed corrective action; we concluded the SFA's monitoring program needs significant improvement. In New York City, the SFA must review meal counting and claiming systems at over 1,600 schools. This is a monumental task that, in our opinion, has resulted in a less than effective review process because it has not been well planned. We believe the monitoring process needs to be reassessed for its effectiveness to include: the resources devoted to conducting monitoring visits, the comprehensiveness of the reviews, and the corrective action and followup process.

RECOMMENDATION NO. 11

Require the SA and SFA to establish a process that will provide more effective management controls for a large NSLP operation, to include controls to ensure

(1) correction of identified deficiencies, (2) allocation of adequate resources for monitoring visits, and (3) effective staff training.

FNS Response

FNS officials agreed with this recommendation.

SA Response

The SA agreed with this recommendation.

SFA Response

The SFA's response cited several actions that they propose to implement to strengthen monitoring to include:

- (1) The SFA requested a waiver of the requirement for visiting each of the over 1,600 schools annually from FNS.
- (2) In lieu of these visits, the SFA proposed to focus intensively on schools with a higher risk of having meal counting and claiming deficiencies.
- (3) The SFA will focus monitoring on schools in the base year of Provision 2 to assure the procedures are followed correctly from the beginning.
- (4) Where possible and permissible, SFA technical advisors will request that corrective action be taken at the time of the monitoring visit.

- (5) Findings will also be posted on a website to induce schools to provide documentation that corrective action is taken.
- (6) Followup visits will be performed.
- (7) Annual evaluations will include a rating on the performance of NSLP duties.
- (8) The Office of the Auditor General, directly or through a third-party, will review implementation of the action plan at the end of SY 2002/2003.

OIG Position

We believe that FNS should grant the waiver and allow the SFA to implement the proposed corrective action plan.

To reach management decision, FNS needs to provide details of how the agency will implement the recommendation, to include the date by which corrective action will be taken.

RECOMMENDATION NO. 12

Direct the SA to require the SFA to establish a followup system to ensure identified deficiencies are corrected.

FNS Response

FNS officials agreed with this recommendation.

SA Response

The SA officials agreed with this recommendation.

SFA Response

The SFA officials agreed with this recommendation.

OIG Position

To reach management decision, FNS needs to provide details of how the agency will implement the recommendation, to include the date by which corrective action will be taken.

FINDING NO. 5

APPROVED APPLICATIONS WERE NOT RETAINED FOR THE DURATION OF PROVISION 2 OPERATIONS

The SFA needs to re-enforce record retention requirements at its Provision 2 schools to support its ongoing entitlement to NSLP reimbursement. We confirmed that only 21 of the 94 schools operating under Provision 2 for over three years retained the base-year applications which support current meal claims. Although the SA verified the accuracy

of the applications taken in the schools' base-year of operation, the source records should have been retained to support meal claims during the duration of Provision 2 status. The SFA did not recognize the need for retaining the applications for the duration of Provision 2 operations. The NSLP regulations do not specifically address additional record retention requirements for Provision 2 operations. As a result, we were unable to confirm that the SA's review provided reasonable assurance that NSLP applications were properly classified and approved for reimbursement.

According to regulations,¹⁸ SFA records shall be retained for a period of three years after the date of submission of the final claim for reimbursement for the fiscal year. FNS and SA officials advised us that, since the applications taken during the first year of Provision 2 operations are the basis for the claiming percentage for each subsequent fiscal year of Provision 2 operations, the applications should be retained until three years after the applications are no longer the basis of the claim for reimbursement. The SA officials also told us they reviewed each school's application classification and meal counting process prior to authorizing each school to operate under Provision 2. The SA officials believed their review assured accurately classified applications regardless of whether or not the SFA retained the records. The SFA officials told us that the applications did not need to be retained for the duration of Provision 2 operations. Their interpretation was that the base-year applications were records that only supported the base-year claim and were not related to any subsequent claims. The SFA officials did not know whether the schools maintained the base-year applications.

OIG sent confirmation letters to the 94 schools operating for over three years under Provision 2 to determine whether the schools had retained the base-year applications so that we could confirm the accuracy of the SA's review process (see exhibit E). OIG also sent followup letters to those schools that did not respond to the initial confirmation letter. Replies were received from 50 schools and 44 schools did not respond. The responses confirmed that only 21 schools retained the base-year applications. Base-year applications were not maintained, or could not be

¹⁸ Title 7, CFR § 210.23, dated January 1, 1998.

confirmed as maintained, for 73 schools that receive an annual reimbursement of about \$15 million.

During our audit field work, the SA issued statewide guidance requiring SFAs to retain base-year applications. On September 20, 2001, FNS issued a final regulation to revise 7 CFR § 245.9(g) to specifically require that the base-year applications be retained for the duration of Provision 2 operations plus 3 years.

RECOMMENDATION NO. 13

Direct the SA to conduct a review to determine if Provision 2 schools are retaining applications in accordance with the SA guidance. If applications are not retained, direct the SA to require the SFA to take new applications prior to granting an extension of the Provision 2 period.

FNS Response

FNS officials agreed with this recommendation.

SA Response

The SA officials agreed with this recommendation. The SFA also agreed that if a school cannot provide the applications from the base year, the school will have to begin a new base year.

SFA Response

The SFA officials responded that they do not believe a shortfall in retaining base year applications should require obtaining new applications particularly since the proposed technical assistance will focus on the Provision 2 base year schools. The SFA is not aware of any legal authority for such a step.

OIG Position

To reach management decision on this recommendation, FNS needs to provide the date by which the agency will provide the necessary direction to the SA.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

Recommendation No.	Description	Amount	Category
5	Applications were not reclassified based upon verification	\$18,932	Questioned Cost - Recovery Recommended
9	Meals claimed in excess of children in attendance	\$120,210	Questioned Cost - Recovery Recommended
9	Meals claimed in excess of children in attendance	\$862,000	Questioned Cost - Recovery Recommended
10	Value of excess USDA donated foods obtained	\$87,261	Questioned Cost - Recovery Recommended

EXHIBIT B – SCHOOLS VISITED TO TEST MEAL COUNTING AND CLAIMING SYSTEMS

Recipient Agency No.	School Number and/or Name	Borough	ZIP
0203	PS 2 Meyer London School	Manhattan	10002
0215	PS 33 Chelsea School	Manhattan	10001
0221	PS 42 Benjamin Altman School	Manhattan	10002
0234	Manhattan Academy of Technology	Manhattan	10002
0257	IS 131 Dr. Sun Yat Sen School	Manhattan	10002
0630	PS 252 at McBurney School	Manhattan	10023
0825	PS 100 Issac Clason School	Bronx	10473
0831	PS 119	Bronx	10472
0843	PS 138 Samuel Randall School	Bronx	10473
0849	PS 152 Community	Bronx	10472
8644*	Our Lady of Mercy	Bronx	10458
8654*	St. Phillip and St. James	Bronx	10469
1335	PS 282 Park Slope Elementary School	Brooklyn	11217
1523	PS 94 Longfellow School	Brooklyn	11220
1527	PS 124 Silas B. Dutcher School	Brooklyn	11215
1543	PS 172 Gowanus School	Brooklyn	11232
1723	PS 241 Emma Johnson School	Brooklyn	11225
2009	PS 105 Blythebourne School	Brooklyn	11219
2019	PS 164 Rodney	Brooklyn	11219
2151	PS 288 Shirley Tanhill School	Brooklyn	11224
2155	PS 329 Surfside School	Brooklyn	11224
2419	PS 81 Jean P. Ritcher School	Queens	11385
2702	PS 43	Queens	11691
2731	PS 105 Bay School	Queens	11691
2765	PS 225 Seaside School	Queens	11694
2841	PS 160 Walter F. Bishop School	Queens	11435
3017	PS 85 Judge Vallone	Queens	11105
3019	PS 92 Charles Leverich	Queens	11368
7531	PS 16	Queens	11368
3118	PS 18 Greenleaf Whittier	Staten Island	10310
3157	PS 57 Hubert Humphrey School	Staten Island	10304
8691*	Our Lady of Mt. Carmel	Staten Island	10310
0103	PS 19 Asher Levy	Manhattan	10003
1727	PS 249 Canton Avenue School	Brooklyn	11226
1021	PS 59 Friendly	Bronx	10457

* Non-Public Schools

**EXHIBIT C – SCHOOLS VISITED TO TEST WHETHER APPLICATIONS
WERE CORRECTED BASED UPON VERIFICATION
RESULTS**

<u>Recipient Agency No.</u>	<u>School Name/Number</u>	<u>Applications In Error</u>	<u>Applications Not Changed</u>
8601	Immaculate Conception	11	2
8702	Lorges School	9	0
8621	Blessed Sacrament	13	7
8223	Jane Addams High School	12	12
1060	PS 86, Mini	9	4
1143	F.P. Whalen Junior High School	10	10
1305	PS 9, Teunnis G. Bergin School	11	9
8717	Brooklyn Temple	10	10
8375	PS 575, Pacific High School	14	14
8315	Erasmus Hall School	33	33
8603	St. Catherine of Genoa	8	1
2001	PS 48, Mapleton School	6	1
2109	PS 97, Highlawn School	4	4
2203	PS 52, Sheepshead Bay School	4	4
2401	PS 12, James B. Colgate School	10	0
2509	IS 25, Adrien Block School	5	0
2611	MS 67, L. Pasteur School	11	9
2715	PS 63, Old South School	11	6
2821	PS 86, in Queens	5	0
2919	PS 95, in Queens	7	6
3019	PS 92, Harry T. Stewart School	8	0
3124	IS 24, S. Barnes School	8	0
3221	PS 274, Kosciusko School	6	5
	Total	225	137

EXHIBIT D – MEAL COUNTING AND CLAIMING DEFICIENCIES

Page 1 of 2

OIG visits to 35 schools disclosed the following meal counting and claiming deficiencies:

- 21 schools, or 60 percent did not perform a point-of-service meal count as required by 7 CFR 210.7(c)(1)(iii), dated January 1, 1998, and New York City Board of Education (NYC-BOE) Regulation of the Chancellor No. A-815, Section 2.1.1, dated August 10, 1998.
- 13 schools, or 37 percent reported inaccurate enrollment information on the Report of Meals Served (MIE-1 form) in violation of NYC-BOE Regulation of the Chancellor No. A-815, Section 7.1, dated August 10, 1998.
- 13 schools, or 37 percent reported inaccurate eligibility information; i.e., the application count, on the Report of Meals Served (MIE-1 form), in violation of NYC-BOE Regulation of the Chancellor No. A-815, Section 7.1, dated August 10, 1998.
- 18 schools, or 51 percent reported incorrect meal count information on the Report of Meals Served (MIE-1 form) in violation of 7 CFR 210.7(c)(1)(iv), dated January 1, 1998, which requires the SFA to correctly report and consolidate the lunch counts on the claim and in violation of NYC-BOE Regulation of the Chancellor No. A-815, Section 7.1, dated August 10, 1998.
- 26 schools, or 74 percent reported inaccurate average daily attendance information on the Report of Meals Served (MIE-1 form) in violation of NYC-BOE Regulation of the Chancellor No. A-815, Section 7.1, dated August 10, 1998.
- 6 schools, or 17 percent claimed all students received free meals regardless of the students' actual eligibility category status or the actual meal count. Title 7, CFR 210.7(c)(1)(iii), dated January 1, 1998, requires lunch counts, taken daily at the point-of-service, to correctly identify the number of free, reduced-price, and paid lunches served to eligible children.
- 9 schools, or 26 percent claimed meal counts in excess of students in attendance. Title 7, CFR 210.7(c)(1)(iii), dated January 1, 1998, requires lunch counts, taken daily at the point-of-service, to correctly identify the number of free, reduced-price, and paid lunches served to eligible children.

- 7 schools, or 20 percent claimed lunch counts that were substantially higher than OIG's lunch counts performed at the same time. These schools could provide no acceptable explanation for the differences.
- 5 schools, or 14 percent claimed free and/or reduced-price meal counts that exceeded the number of approved free and/or reduced-price applications on hand. Title 7, CFR 210.7(c), dated January 1, 1998, requires claims for reimbursement to be limited to the number of free, reduced-price, and paid lunches and meal supplements that are served to children eligible for free, reduced-price, and paid lunches and meal supplements, respectively, for each day of operation.
- 20 schools, or 57 percent could not locate some of the applications OIG selected for testing. The schools could not provide 303, or 7 percent of the 4,341 applications requested for audit.
- 20 schools, or 57 percent had incorrect eligibility coding entered into the onsite automated system.
- 14 schools, or 40 percent made incorrect eligibility determinations on the basis of information provided on the applications.
- 14 schools, or 40 percent made eligibility determinations even though the applications were substantially incomplete or were missing essential information.

EXHIBIT E – RECORD RETENTION WEAKNESSES AT PROVISION 2 SCHOOLS

Page 1 of 2

Recipient Agency No.	<u>School Name/Number</u>	Did Not Reply	Replied Records Not Available	Program Earnings
1701	IS 61, Atwell Gladstone	x		\$109,563.71
1702	PS 12	x		\$206,310.74
1704	IS 2		x	\$264,893.76
1707	PS 138		x	\$353,482.34
1709	PS 161		x	\$336,770.70
1713	PS 181, William Malbin School	x		\$518,817.75
1715	PS 189, Lincoln Terrace	x		\$337,907.68
1721	PS 221, Empire School	x		\$266,412.34
1727	PS 249, Caton Avenue School	x		\$328,999.24
1735	IS 391, M. Jackson Intermediate School		x	\$108,642.64
1737	PS 397, Foster Laurie Elementary School	x		\$130,514.06
1739	PS 398, Walter Weaver School		x	\$303,745.30
1741	PS 399	x		\$142,426.60
0501	IS 10, Fredrick Douglas Academy	x		\$88,372.99
0503	PS 30, R. Hernandez/L. Hughes School	x		\$277,988.09
0505	PS 36, Margaret Douglas School	x		\$215,859.30
0507	JHS 43, A. C. Powell Junior High	x		\$177,622.21
0509	PS 46, Tappan School	x		\$284,543.31
0511	PS 92, Mary M. Bethune School	x		\$194,698.19
0517	PS 129, John H. Finley School	x		\$259,462.10
0523	PS 154, Harriet Tubman School	x		\$173,126.05
0527	PS 175, H. H. Garnet School	x		\$149,144.11
0531	IS 195, R. Clemente Intermediate School	x		\$138,929.30
0101	PS 15, Roberto Clemente	x		\$93,368.93
0105	PS 20, Anna Silver		x	\$317,993.98
0107	JHS 22, G Straubenmuller		x	\$56,973.80
0109	Marta Valle Model High School		x	\$109,648.93
0111	PS 34, F. D. Roosevelt School	x		\$136,334.60
0115	JHS 60, Ottilia Beha Junior High	x		\$125,995.29
0117	PS 61, Anna Howard Shaw School	x		\$80,565.80
0119	PS 63, William McKinley School		x	\$120,828.85
0121	PS 64, Robert Simon School	x		\$124,210.69
0123	PS 97, Mangin School		x	\$129,711.91
0125	PS 110, F. Nightingale School	x		\$120,420.44
0127	PS 134, Henrietta Szold School		x	\$147,005.51
0130	488, Lower East Side @ PS15		x	\$21,492.19
0131	PS 140, Nathan Straus School		x	\$149,435.95
0133	PS 142, Amalia Castro School		x	\$149,883.85
0135	PS 188, John Burroughs School	x		\$135,921.55
0901	PS 2, Morrisania School	x		\$193,575.99
0903	PS 4, Crotona School	x		\$228,789.40
0907	JHS 22, Jordon L. Mott Junior High	x		\$239,315.46
0909	PS 28, Mt. Hope School	x		\$348,764.09

<u>Recipient Agency No.</u>	<u>School Name/Number</u>	<u>Did Not Reply</u>	<u>Replied Records Not Available</u>	<u>Program Earnings</u>
0911	PS 35, Franz Sigel School		x	\$232,924.99
0913	PS 42, Claremont School		x	\$186,027.34
0915	PS 53, Basheer Quisim School		x	\$336,147.33
0917	PS 55		x	\$351,036.08
0919	PS 58	x		\$179,976.95
0921	PS 63	x		\$198,168.51
0923	PS 64, Pura Relpre School	x		\$311,293.90
0925	PS 70, Max Schoenfeld School		x	\$489,946.51
0927	PS 73	x		\$332,659.75
0929	JHS 82, Macombs Junior High	x		\$229,096.76
0931	PS 88		x	\$167,657.56
0933	PS 90, George Meany School	x		\$460,101.10
0935	PS 104, Abraham Ehrenfeld	x		\$326,673.40
0937	PS 109, Sedgewick School		x	\$267,931.69
0939	PS 110, Theo Schoenfeld School	x		\$251,417.95
0941	PS 114, Luis Liorens Torres	x		\$282,374.06
0943	JHS 117, Joseph H. Wade Junior High	x		\$223,957.96
0947	PS 132, Garrett A. Morgan School		x	\$266,873.74
0951	IS 147, Diana Sands Intermediate School	x		\$267,702.00
0953	JHS 148, Chas. A. Drew Intermediate School	x		\$77,910.01
0954	PS 235 @ JHS 148, Rafael H. Bilingual		x	\$93,691.49
0955	PS 163, Arthur A. Schomberg School		x	\$242,033.16
0957	IS 166/R. Clemente Intermediate School		x	\$287,955.80
0958	PS 204	x		\$147,729.10
0959	IS 229/PS 230, Dr. R. Patterson	x		\$210,199.73
0961	PS 236, Langston Hughes School		x	\$39,013.63
0962	PS 170		x	\$84,927.19
0963	629/IS 229, Patterson Intermediate School		x	\$142,133.01
0965	855/PS 53 Annex		x	\$139,310.39
0966	856/Project Prep.	x		\$0.00
	Total	44	29	<u>\$15,225,340.76</u>

EXHIBIT F – FOOD AND NUTRITION SERVICE RESPONSE TO THE DRAFT REPORT

Page 1 of 4



**United States
Department of
Agriculture**

Food and
Nutrition
Service

Northeast Region

10 Causeway St.
Rm. 501
Boston, MA
02222

September 11, 2002

Rebecca Batts
Regional Inspector General
for Audit
Northeast Region
5601 Sunnyside Avenue, Stop 5300
Beltsville, Maryland 20705-5300

Dear Ms. Batts:

This is in response to your August 29, 2002 letter requesting our comments on the official draft of Audit 27010-28-HY – New York City National School Lunch Operations. The audit presents the Office of Inspector General's (OIG) findings and recommendations regarding the administration of the National School Lunch Program (NSLP) by the New York City Board of Education (SFA) under the auspices of the New York State Department of Education (SA). Our comments follow:

Executive Summary, Page ii, first paragraph, last sentence.

Remove all references to high error rates after School Year (SY) 1998-1999. This data does not fall into the audit period. OIG requested this data in March 2002 subsequent to release of the Discussion Draft audit. Also, remove the references to verification error rates for SYs 1999-2000, 2000-2001 and 2001-2002 from page 7. This data was also requested subsequent to the release of the Discussion Draft and should not be included.

Recommendation No. 1 – In consultation with the SA and the SFA, develop and require the SFA to implement an application verification process that will provide reasonable assurance that children determined eligible for free or reduced price meals are, in fact, eligible.

We will ensure that the SA requires the SFA to fully comply with the current regulations pertaining to verification at 7 CFR 245.6a.

Recommendation No. 2 – Consider withholding administrative funds from the SA if the SFA does not take timely action to implement effective management controls over the application verification process.

AN EQUAL OPPORTUNITY EMPLOYER

Rebecca Batts
Regional Inspector General for Audit
Page 2 of 4

Based on our communications with the SA, they understand the need for improvement in NYC and have already been constructively engaged in corrections and improvements. If they were not, at some point we would consider withholding administrative funds. We do not believe this recommendation is necessary to ensure SA action with regard to this audit.

Recommendation No. 3 – Provide guidance to the SA and SFA as to how direct certifications and Provision 2 schools are to be treated in the application eligibility verification process.

We agree with this recommendation.

Recommendation No. 4 – Require the SA to direct the SFA to establish an internal control process to ensure that applications found in error are corrected at the school level.

We agree with this recommendation.

Recommendation No. 5 – Recover the excess reimbursement of \$18,932.

We agree with this recommendation. We will bill the SA \$18,932 and establish an account receivable for this amount or any adjusted amount if changed in the Final Audit report.

Recommendation No. 6 – Require the SA to direct the SFA to accurately report daily attendance on the meal claim forms.

Daily attendance data as part of the meal claim form is not required by regulations (to do so would require a change in the regulations for the national program). However, we can and will work with the SA and SFA to improve the SFA's current edit check process and verify the accuracy of attendance reporting, and could agree with a recommendation to that effect.

Recommendation No. 7 – Require the SA to direct the SFA to perform an edit check using daily attendance and daily meal counts, by category, and establish controls to provide accurate meal counts.

We agree that improvements in meal counting and claiming as well as edit check controls should be made, but FNS has no regulatory basis to require a remedy that compares actual daily attendance to meal counts. We can suggest this to the SA and SFA as a good business practice and could agree to a recommendation that we work with the SA to direct the SFA to

Rebecca Batts
Regional Inspector General for Audit
Page 3 of 4

improve the current meal counting and claiming process as well as their edit check controls.

Recommendation No. 8 – If the SFA does not take timely action to implement this edit check, consider withholding administrative funding from the SA.

Based on our communications with the SA, they understand the need for improvement in NYC and have already been constructively engaged in corrections and improvements. If they were not, at some point we would consider withholding administrative funds. We do not believe this recommendation is necessary to ensure SA action with regard to this audit.

Recommendation No. 9 – Determine how much of the \$982,210 in potential excess reimbursement needs to be recovered.

We agree with this recommendation.

Recommendation No. 10 – Determine how much of the \$87,261 in potential excess donated foods needs to be recovered.

We agree with this recommendation.

Recommendation No. 11 – Require the SA and SFA to establish a process that will provide more effective management controls for a large NSLP operation, to include controls to ensure (1) correction of identified deficiencies, (2) allocation of adequate resources for monitoring visits and (3) effective staff training.

We agree with this recommendation.

Recommendation No. 12 – Direct the SA to require the SFA to establish a follow up system to ensure identified deficiencies are corrected.

We agree with this recommendation.

Recommendation No. 13 – Direct the SA to conduct a review to determine if Provision 2 schools are retaining applications in accordance with SA guidance. If application are not retained, direct the SA to require the SFA to take new applications prior to granting an extension of the Provision 2 period.

We agree with this recommendation.

Rebecca Batts
Regional Inspector General for Audit
Page 4 of 4

Exhibit A – Summary of Monetary Results

For the monetary findings of \$120,210, \$862,000 and \$87,261, we request the terminology be changed to “Question cost – Recovery amount to be determined” as these amounts are no longer billable items as reported.

Factual Discrepancies

Page 2, last sentence of the second paragraph, the reference that Provision 2 may be extended for “2” more years, should be changed to “4” years.

Page 10, the paragraph referencing that the SFA could not provide documentation that child determined eligible under direct certification procedures were excluded from the income verification process, should be eliminated as the SFA did provide the corrected information.

The SFA has already submitted substantial documentation to justify lowering and eliminating certain findings and over claims yet the report does not acknowledge this action. The willingness of the SFA to implement corrective action before the audit is issued in final demonstrates the SFA and state’s willingness to resolve problems. This fact should be acknowledged in the body of the report as well as in the executive summary.

Thank you for the opportunity to discuss the findings and provide comments to the Official Draft Audit Report. If you have any questions, please call John Magnarelli at 617-565-6426.

Sincerely,

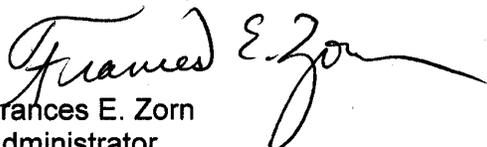

Frances E. Zorn
Administrator
Northeast Region

EXHIBIT G – STATE AGENCY RESPONSE TO THE DRAFT REPORT

Page 1 of 4



THE STATE EDUCATION DEPARTMENT | THE UNIVERSITY OF THE STATE OF NEW YORK | ALBANY, NY 12234

CHIEF OPERATING OFFICER
Tel. (518) 474-2547
Fax (518) 473-2827
E-mail: rcate@mail.nysed.gov

September 19, 2002

Ms. Rebecca Batts
Regional Inspector General for Audit
Northeast Region
United States Department of Agriculture
5601 Sunnyside Avenue, Stop 5300
Beltsville, Maryland 20705-5300

Dear Ms. Batts:

I am responding to the August 30, 2002 letter requesting our comments on the official draft of Audit 27010-28-Hy-New York City National School Lunch Program Operations. This response addresses the findings in revised Exhibit A, which was received September 11, 2002. The audit presents the Office of Inspector General's (OIG) findings and recommendations regarding the administration of the National School Lunch Program by the New York City Department of Education (NYCDOE), which is a school food authority (SFA) whose Program is administered by the New York State Education Department (SA).

We are committed to insuring corrective actions which we believe will result in improvement in the NYCDOE's application, verification and meal claiming procedures. Since Child Nutrition Programs play an integral role in education results, we support efforts to ensure the fiscal integrity of these programs. We will collaborate with the NYCDOE to ensure identified deficiencies are corrected.

The SFA has already submitted substantial documentation to validate lowering and eliminating certain findings and over-claims included in prior draft versions of the audit, yet this revised official draft does not acknowledge these efforts. The willingness of the SFA to implement corrective action before the audit is issued in final demonstrates the SFA and State's willingness to resolve problems. This fact should be acknowledged in the body of the report as well as in the executive summary.

Executive Summary, Page ii – first paragraph, last sentence

The audit was conducted on School Year 1998-99. The high error rate data, which includes non-responders, provided here was obtained in March 2002 and addresses error rates in verification in subsequent years. It should not be included in this discussion draft.

Recommendation No. 1 – In consultation with the SA and the SFA, develop and require the SFA to implement, an application verification process that will provide reasonable assurance that children determined eligible for free or reduced price meals are, in fact, eligible.

We agree with the recommendation. We will ensure that the SFA complies with current regulations pertaining to verification at 7 CFR 245.6a. We suggest the NYCDOE work more closely with eligible families to get them to produce the needed documentation. Since many families do not pay for meals anyway, failure to respond does not affect them fiscally, which eliminates the incentive to produce the documentation. Families with language barriers may require special assistance to comply with the request for verification. Unfortunately, schools

often do not have the personnel to either speak the family's native language or to establish the trust necessary for a family to disclose income information.

Recommendation No. 2 – Consider withholding administrative funds from the SA if the SFA does not take timely action to implement effective management controls over the application verification process.

We disagree with the recommendation. The State Agency will collaborate with the SFA to ensure that the application verification process is conducted properly. It is not necessary to include this recommendation in order to ensure corrective action by the State Agency.

Recommendation No. 3 – Provide guidance to the SA and SFA as to how direct certifications and Provision 2 schools are to be treated in the application eligibility verification process.

We agree with the recommendation. We will continue to provide guidance and direction to the SFA to ensure direct certification letters are excluded from the verification pool. Although it is not required, we will also recommend that the verification include base year Provision 2 schools.

Recommendation No. 4 – Require the SA to direct the SFA to establish an internal control process to ensure that applications found in error are corrected at the school level.

We agree with the recommendation. The NYCDOE needs to establish internal controls to ensure that all children on applications found in error are corrected at the school level and will direct them to do so.

Recommendation No. 5 – Recover the excess reimbursement of \$18,932.

We agree with the recommendation. This is an appropriate reclaim since NYCDOE did not make the required eligibility adjustments at the school levels.

Recommendation No. 6 – Require the SA to direct the SFA to accurately report daily attendance on their meal claim forms.

We agree, in part, with the recommendation. The SFA should obtain accurate counts of reimbursable meals served to students on a daily basis. The SFA should perform an edit check that compares average daily attendance against daily meal counts. Regulations do not require comparisons with "actual" daily attendance records. While we agree that the SFA needs to improve its internal controls, and will work with them to do so, this recommendation would require them to adhere to a higher standard than other SFAs. Because of the size of the district, this requirement could result in the SFA failing to submit its meal claims within the required time frames each month.

Recommendation No. 7 – Require the SA to direct the SFA to perform an edit check using daily attendance and daily meal counts, by category, and establish controls to provide accurate meal counts.

See response to Recommendation No. 6.

Recommendation No. 8 – If the SFA does not take timely action to implement this edit check, consider withholding administrative funding from the SA.

We disagree with the recommendation. The State Agency will collaborate with the SFA to obtain accurate counts of reimbursable meals. If the meal counting and claiming processes improve, the discrepancies disclosed by the edit checks should be greatly reduced. We concur that edit checks are a useful internal control and support a comparison of daily meal counts against average daily attendance. We do not believe that it is necessary to include this recommendation to ensure State Agency compliance with the findings of the audit.

Recommendation No. 9 – Determine how much of the \$982,210 in potential excess reimbursement needs to be recovered.

We agree with the recommendation, but suggest adding “to the extent reasonably practicable.”

Recommendation No. 10 – Determine how much of the \$87,261 in potential excess donated foods needs to be recovered.

We agree with the recommendation, but suggest adding “to the extent reasonably practicable.”

Recommendation No. 11 – Require the SA and SFA to establish a process that will provide more effective management controls for a large NSLP operation, to include controls to ensure (1) correction of identified deficiencies, (2) allocation of adequate resources for monitoring visits, and (3) effective staff training.

We agree with the recommendation.

Recommendation No. 12 – Direct the SA to require the SFA to establish a follow up system to ensure identified deficiencies are corrected.

We agree with the recommendation.

Recommendation No. 13 – Direct the SA to conduct a review to determine if Provision 2 schools are retaining applications in accordance with the SA guidance. If applications are not retained, direct the SA to require the SFA to take new applications prior to granting an extension of the Provision 2 period.

We agree with the recommendation. The State Agency will determine if Provision 2 schools are retaining applications. If the school cannot provide the applications from the base year, the school will have to begin a new base year. No extensions can be granted once new applications are obtained.

Exhibit A – Summary of Monetary Results

For the monetary findings of \$120,210; \$862,000 and \$87,261 we request the terminology be changed to “Questioned cost – Recovery amount to be determined” as these amounts are no longer billable items as reported.

Factual Discrepancies

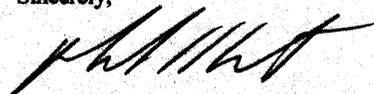
Page 2, last sentence of the second paragraph, the reference that Provision 2 may be extended for “2” more years, should be changed to “4” years.

Page 10, the paragraph referencing that the SFA could not provide documentation that children determined eligible under direct certification procedures were excluded from the income verification process, should be

eliminated as the SFA did provide the corrected information.

If you have any questions, please contact Frances O'Donnell at (518) 473-8781.

Sincerely,

A handwritten signature in black ink, appearing to read "R. H. Cate", written in a cursive style.

Richard H. Cate

cc: Frances N. O'Donnell

EXHIBIT H – SCHOOL FOOD AUTHORITY RESPONSE TO THE DRAFT REPORT

Page 1 of 16



The New York City Department of Education

JOEL I. KLEIN, *Chancellor*

JESS FARDELLA, Auditor General

MEMORANDUM

TO: Rebecca Batts, Regional Inspector General,
Robert Butzirus, Assistant Regional Inspector General for Audit
Office of Inspector General, U.S. Department of Agriculture

FROM: Kevin Gill, Chief Executive for Operational Support Services
Jess Fardella, Auditor General
Chad Vignola, General Counsel to the Chancellor

DATE: September 20, 2002

RE: Response of The New York City Department of Education to OIG-USDA
Official Draft Audit Report

Introduction

The Department of Education for the City of New York (DOE) respectfully submits this response to the draft report for Audit No. 27010-28-Hy of the Office of Inspector General (OIG) of the U.S. Department of Agriculture (USDA) concerning the DOE's administration of the school lunch program in school year 1998-99.

The DOE is fully committed to addressing the three major concerns of the draft report, which calls for strengthening the processes for (1) verifying eligibility for free and reduced-price lunch, (2) submitting accurate meal reimbursement claims, and (3) providing greater oversight of and accountability for the schools' meal counting and claiming procedures. Beginning many months ago, we shared the details of our plan with the OIG and USDA's Food and Nutrition Service (FNS) officials, and already have implemented certain steps of it, as indicated below. The OIG's draft report does not mention those efforts, and we respectfully request that the OIG explicitly recognize them in the final report.

We are appreciative of the time and effort that the OIG has taken to listen to and account for our position in developing this official draft. We believe, however, that additional information needs to be added to place the audit findings in an appropriate context. In particular, the final report should give greater recognition to the fact that the DOE's inability to verify the school lunch eligibility of approximately half of a sample of 3,300 program participants was attributable almost entirely to the failure of parents or guardians to respond to requests for income information, rather than to a determination that the participants had income above applicable thresholds. In addition, we believe the report should mention that the DOE's difficulties in verifying parental income is no different than the experience of other large school districts throughout the country, and that the

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1

overwhelming reason for this difficulty, as in New York City, is non-response. We believe these facts should be included not to provide an excuse for the findings – the DOE acknowledges and is addressing the need for performance improvement – but to suggest that the widespread nature of the findings across the country suggests that the funding mechanism for the current school lunch program should be changed.

The OIG also suggests that approximately 25% of the monthly meal claims it examined at a little less than half of New York City schools may have exceeded the average attendance at the school. However, as explained in Section II.A below, a meal claims-attendance comparison for the entire system, as opposed to the school-by-school comparison for a portion of the schools performed by the OIG, would not have found a potential excess of meal claims over attendance. While a system-wide analysis does not preclude a finding of erroneous claiming at particular schools, the final report should include a system-wide analysis.

The OIG has appropriately decided to refer any determination of possible excess reimbursement to FNS. Accordingly, the final report should refrain from referring to those claims in an exhibit as “questioned cost-recovery recommended.” The draft also indicates that the DOE has conceded a sum of \$120,210 in excess reimbursement. That is not the case, and the matter should await determination by FNS.

Furthermore, the question of possible excess reimbursement must take into account several factors that were not accounted for (and generally could not easily have been accounted for) in the audit. Among other things, the OIG’s analysis, as it acknowledges, was unable to account for the fact that a meal claim from a single location could – and we believe in some cases did – include meals served to students of multiple schools or school programs that separately report attendance. In such circumstances the meal claim encompassing multiple schools or school programs would have been assessed using the average attendance percentage of only one of those schools, whose attendance figure could differ from the average – as well as the actual – attendance of all those schools in the aggregate.

We recognize that, in light of verification results and eligibility issues – nationwide as well as in New York City – there is a need to take additional steps to improve the eligibility determination and verification processes. The Department has taken or is in the process of taking such steps. As explained more fully in section I.C below, these steps include computer matches with information from welfare agencies, enhanced audits and data compilation to remove those found ineligible from meal rosters, and redoubled efforts to obtain responses to verification requests.

We also have embraced the OIG’s suggestion of creating an “edit check” to ensure that meal claims do not exceed students in attendance, by school lunch category. As set forth in section II.B, we will compare our monthly school lunch reimbursement claims with the aggregate attendance, by school lunch category. We will investigate where meal claims in a category exceeds attendance in that category.

Finally, in section III.B, we set forth steps that will strengthen our “technical assistance” visits by making schools and superintendents more accountable for the results of those visits and by allowing staff to focus on the correction of problems in the particular schools experiencing the most substantial deficiencies.

We are committed to these actions because we take seriously our responsibility to promote compliance with legal requirements in their present form. However, we would be remiss if we did not take this opportunity to point out that, as this audit has demonstrated, the method of allocating funds for the school lunch program is in need of structural changes, at least in the context of large, heterogeneous urban school districts like New York City, where the population is highly mobile and includes substantial numbers of recent immigrants.

We urge the federal government to consider a program that generates school meal grants on the basis of socio-economic data, not the collection and tabulation of individual lunch applications, and that focuses oversight on a school district’s success in having enticing and nutritious meals consumed by children. Such a system would be superior to the expensive, labor-intensive tasks of qualifying specific families for benefits, and requiring student-specific lunch line monitoring and collections, now performed under what are, at best, difficult circumstances in almost 1,600 school sites across the city. It is simply pound-foolish (and not even penny-wise) to expend overtaxed school resources on these processes, rather than saving them for educational improvement. Programs like Provision 2 are a step in the right direction, and the DOE has tried to maximize that option, and is evaluating the potential utility of Provision 3. But the federal government should seriously consider a funding system for large school districts based on a socio-economic analysis.

Finally, we urge that income ceilings for eligibility be raised. A family of four in New York City must make less than \$23,530 (the new ceiling just implemented this school year) to be eligible for free lunch. Whatever the merits of welfare reform as a whole, it would be a worthwhile investment to use a more generous standard to help ensure that children have the nutrition they need to be healthy and alert, and thereby to learn and grow.

I. Issues Related to the Verification Process

A. Finding 1 and Recommendations 1 and 2.

The OIG points out that, in the 1998-99 “verification” process required by federal school lunch program regulations, the DOE was unable to verify the income reported on approved applications by 55.8% of approximately 3,326 sampled families whose children received free or reduced price lunch. These verification results and those of prior years, the OIG asserts, should have prompted the DOE to take additional action, even though not legally required, as the OIG acknowledges. (DAR 7) ¹ The OIG also recommends that

¹ “DAR” refers to the OIG’s official draft audit report in this matter, which the DOE received on September 3, 2002.

USDA threaten to withhold “administrative funds” to SED for the school lunch program if the DOE does not implement additional, albeit non-mandatory, actions.

We agree with the OIG that the verification results point to the need for action by the DOE, and the DOE voluntarily will take steps, as outlined in section I.C below, to strengthen the eligibility and verification processes. We believe that the measures we have taken and will take fully meet the OIG’s concerns, and that there will be no need to consider a withholding of funds.²

However, we believe that the final report should give recognition to the following points to put the verification issue in its proper context.

- The DOE’s difficulties in verifying parental income is a problem experienced to the same degree by school districts throughout the country. While we have been unable to find any central repository of such data, our own research has disclosed that six Midwestern states, as well as Louisiana, Maryland, Massachusetts and the cities of Boston and Philadelphia, have reported a 50% or greater verification error rate in recent years.³
- As the OIG recognizes, ineligibility cannot simply be inferred from an inability to verify income. Both in New York City and around the country, the overwhelming reason for verification error rates is not that parents are discovered to have non-qualifying income, but rather that parents fail to respond to the request for income information.⁴ Particularly in areas like New York City, where many beneficiaries have not been assimilated into the economic mainstream or may be recent immigrants, non-response is not tantamount to ineligibility. Indeed, the FNS of the USDA found in a 1990 study that as many as 67% of non-respondents could in fact be eligible for benefits. While other, lower figures also have been posited, and some verification non-responders doubtless have non-qualifying income, there is simply no reliable means right now to know how many non-responders would not qualify if they had submitted income information. For these

² Consequently, any suggestion that the verification sample should be expanded (see DAR 7) would be unproductive – particularly since the core reason for the error rate is non-response – and an unwarranted drain on scarce resources.

³ We do not cite similar or higher error rates in other jurisdictions to mitigate the significance of our own experience or to disclaim the need for additional action. We do believe, however, that the universal nature of verification issues points to the difficulty of that process, the need, as outlined above, for structural reforms in school lunch funding and administration, at least for large and complex urban districts like New York City, and the appropriateness of our plea that the final report set forth additional context.

⁴ In the year of the OIG audit, school year 1998-99, 1,540, or 83% of the 1,857 children whose eligibility was required to be changed from free to reduced price or paid, or from reduced price to paid, was attributable to non-response. In other jurisdictions for which we have been able to collect information, non-response comprises between approximately 60-80% of the verification error rate.

reasons, we applaud the fact that the OIG has refrained from projecting the DOE's verification results to the DOE's entire school lunch population.⁵

- The verification results themselves cast doubt on any assumption that all free lunch non-responders had income that would force them into the paid lunch category. Of the 199 responders in the free lunch category whose eligibility status changed, the majority were changed to reduced price (119) rather than paid.
- Textual references to the 55.8% of applications that had be reclassified as a result of the 1998-99 verification process (DAR pp. ii, 6, 8) should note not only the high percentage attributable to non-response (1,540, or 83% of the 1,857 children whose eligibility was required to be changed from free to reduced price or paid, or from reduced price to paid), but also the fact that of the 118 reduced-price responders whose eligibility status changed, 32 actually were changed to free lunch as a result of their submissions in the verification process.⁶

B. Finding 2 and Recommendations 3-5.

The OIG further finds (a) that DOE may have included in the verification process children determined eligible on the basis of direct certification letters; (b) that many Provision 2 (Universal School Meals or "USM") schools in their base year were not included in the universe of schools sampled in the verification process;⁷ and (c) that the DOE did not have procedures in the 1998-99 school year to ensure that applicants found to be ineligible in the verification process would stop receiving benefits. Finding that eligibility adjustments dictated by the 1998-99 verification process often were not made by the schools, the OIG recommends that the DOE remit \$18,932 in excess lunch reimbursement. (DAR 9-11).

The OIG bases point (a) on the assertion that the DOE "could not provide documentation that children determined eligible under direct certification procedures were excluded from the income verification process." (DAR 10). As we have discussed with the OIG, however, evidence of DOE practice provides every reason to find that such

⁵ Of course, only actual non-responders in the required sample can be made ineligible. There is no legal authority for extrapolating the percentage of non-responders in the verification sample to the entire population or for a financial penalty that would effectively revoke benefits for a large segment of the school lunch population.

⁶ The figures for non-verification in the other school years (1999-00, 2000-01 and 2001-02) cited by the OIG (DAR 7) also are attributable to similar high rates of non-response, and also reflect instances in which reduced-price lunch students were changed to free lunch as a result of income information that was submitted.

⁷ As OIG recognizes, 12 of the 86 Universal Meals schools in their base year were included in the verification process in school year 98-99. (DAR 10)

children were in fact not subject to verification.⁸ In any case, the issue is moot because, as we recently agreed with the OIG, our newly-implemented computer match of welfare recipients to help determine the free lunch-eligible population will enable us automatically to exclude verified benefits recipients from the verification process.

The need to include all USM schools in their base year as possible sample selectees had not been previously identified in any review or audit, to our knowledge, and there is no regulatory requirement to that effect (in fact, the OIG judged the DOE's previous method of sampling – which was taken from a rotating quarter of the schools each year – as “acceptable for traditional schools” (DAR10)). In any case, though not required to do so, the DOE has determined to fully address the OIG's concerns by including all USM schools in their base year in the universe from which samples are selected. See section I.C below.

Regarding the schools' correction of records to reflect verification results, we believe that the situation already has improved over what the OIG found in its audit in school year 1998-99.⁹ Moreover, the DOE is taking additional steps to ensure that determinations of ineligibility are reflected in school meal rosters and other DOE data compilations, as set forth in sections I.C and III.B below.

C. The DOE's Program to Address Verification and Eligibility Issues

The DOE has implemented or plans to implement the following steps to enhance the accuracy of free and reduced-price lunch determinations and the verification process:

- In accordance with federal regulations and initiatives in other cities,¹⁰ the DOE already has recently implemented a computerized match of its

⁸ As we have shown the OIG, the DOE directs schools not to require parents to fill out lunch applications if they produce a direct certification letter. In addition, only submitted applications, not direct certification-eligible students, are subject to the verification process. The OIG has suggested that perhaps parents who were declared eligible based on direct certification letters nonetheless completed (and the schools accepted and filed) applications, and that perhaps the direct certification letters were torn off or became separated from the applications in connection with the verification process. This is, at best, a highly unlikely assumption for which no evidence was adduced in the audit.

⁹ Last year, before the draft audit report, the DOE took a sample of students whose eligibility was changed in the verification process and found that schools made the required changes in their records in 78% of the sampled cases. The remaining schools were re-advised of the requirement to make the changes.

¹⁰ As part of the “direct certification” option of determining eligibility, the regulations provide that the state or local “food stamp, FDPIR [food program for Indian reservations] or TANF [Temporary Assistance to Needy Families] office may provide school officials with a list, or documentation may be obtained through a computerized match in which computerized lists of names of children from food stamp, FDPIR or TANF households and other identifying information are matched against a list of names and other identifying information of schoolchildren.” 7 CFR § 245.6(b). We are informed that Philadelphia has implemented a similar welfare data-matching program and Los Angeles is in the process of attempting to start such a program. The DOE has heretofore used only the more cumbersome direct certification alternative in section 245.6(b) of relying on welfare authorities to send letters confirming TANF or food stamp eligibility to families, and on families to bring those letters to the schools.

students with lists from New York City's Human Resources Administration (HRA) concerning DOE students who are recipients of public assistance and food stamps to establish eligibility.¹¹ As a result, the number of students who claim eligibility or are declared eligible based on income information or on the inclusion of a public assistance or food stamps number in SD-1041 applications will be significantly reduced, and efforts to determine, audit and verify the school lunch eligibility of those students will result in greater accuracy.

- The DOE intends to implement additional measures to obtain responses from families selected for the verification process, including by supplementing letters with telephone calls and perhaps home visits, subject to the availability of resources in these straitened times, in which the DOE is absorbing hundreds of millions of dollars in budget cuts.
- As stated above, the DOE will change its verification sampling procedure for this school year by including all USM schools in their base year and all non-USM schools in the universe of randomly-sampled schools. For schools that are selected in this process, students will be randomly-sampled after excluding from the universe those whose lunch eligibility is based on the computer match with individuals on public assistance or food stamps.
- The DOE will implement additional measures to check that the eligibility information in school meal rosters conforms to available information concerning eligibility and ineligibility of individual students. Specifically, beginning this school year, the DOE is requiring that meal rosters used by elementary schools, and meal eligibility identifiers (e.g., cards, stubs) used in middle schools and high schools, be generated based on information concerning lunch eligibility recorded in the DOE's student information system, ATS, whether based on the computer match of recipients of public assistance or food stamps, on direct certification letters, or on submitted applications.
- In addition, any determinations of ineligibility made in the course of the OSFNS's "technical assistance" visits pursuant to 7 CFR § 210.8(a)(1),¹² the verification process, any internal DOE audit or any audit performed by an external agency (provided that student-specific information is provided by the agency and verified by the DOE), will be reconciled with ATS lunch eligibility information on a student-specific basis. There will be follow-up

¹¹ The DOE also will continue to accept direct certification letters sent to families advising them of their free lunch eligibility based on their receipt of these benefits, although this should be largely redundant of the computer match.

¹² This step is contingent on the DOE's being relieved of the obligation to visit all schools each year, see section III.B below.

to ascertain whether appropriate action was taken in response to determinations of ineligibility. With these steps, the meal rosters that ultimately are used to generate meal claims will reflect eligibility with a greater degree of accuracy. See section III.B below.

- Superintendents will face greater accountability for deficiencies and failure to timely correct deficiencies identified in the OSFNS's technical assistance visits. See section III.B below.
- The Department has issued revised instructions and guidance to superintendents and principals to re-emphasize the importance of accuracy in the meal eligibility process (and in other aspects of meal accountability), including to guard against unauthorized changes in applications made by school officials that may result in unsupported or incorrect determinations of eligibility.¹³

II. Checking Meal Claims Against Attendance

A. Finding 3 and Recommendations 6-10

The OIG asserts that the DOE did not comply with federal regulations because the DOE did not implement an "edit" check that would identify situations in which meal claims for free, reduced price and paid lunch exceeded the school's average daily attendance (ADA). The OIG also claims that, of 6,673 monthly meal claims submitted by 667, or a little less than half, of New York City public and non-public schools for school year 1998-99, 1,647 or 25% of the claims exceeded the school's ADA for the month, as applied to the three school lunch categories. The OIG asserts that its analysis "determined the [DOE] could have received excess reimbursement totaling at least \$982,210," and "could have obtained excess USDA donated foods valued at \$87,261." (DAR 14). The OIG recommends that the DOE accurately record daily attendance on meal claim forms and perform an "edit check using daily attendance and daily meal counts, by category, and establish controls to provide accurate meal counts." It also recommends that FNS determine the actual extent of any excess reimbursement. (DAR 15-16).

While, as indicated in the DAR, we respectfully disagree that regulations required the DOE to implement a meal claim-attendance check in the past, the DOE, beginning this school year, intends to add an additional safeguard to its meal-claiming process by implementing such an edit check, as we previously advised the OIG and FNS. See Section II.B below.¹⁴

¹³ We are sharing with the OIG and USDA-FNS under separate cover a copy of notice recently sent to superintendents and principals advising them of the importance of accuracy and new procedures designed to promote it.

¹⁴ As the draft report notes (DAR 14), OSFNS already performs other edit checks including a check that the total daily count of meals served does not exceed an average daily attendance figure or the sum of free lunch, reduced price lunch and paid lunch meal counts. OSFNS also has an edit check where the number of reported free and reduced price lunches reported exceeds reported figures for eligibility in those categories.

The OIG's decision not to assert a disallowance based on its analysis, and to confide that determination to FNS, is a sound one, in view of the fact that the analysis did not account – and could not easily have accounted – for several factors. We will, of course, cooperate with FNS in this matter. However, inasmuch as the OIG has included the figures from its analysis in the draft report, and designated them in an exhibit as “questioned cost-recovery recommended” (that issue should await FNS's determination) we outline these factors, as follows.

- The OIG compared actual monthly meal claims in each lunch eligibility category not to the actual attendance of the children in each such category, but instead to the average attendance for the month for all students at the location. An average is just that – an average – and actual attendance in a particular eligibility category of children may differ from the average.
- As the OIG recognizes (DAR 15), its analysis does not account for the substantial possibility that in many instances claims from a feeding location reflect children from multiple school or school programs with different average attendance percentages reported in ATS.¹⁵ In such circumstances the meal claim would have been assessed using the average attendance percentage of only one of those schools, whose attendance figure could be higher or lower than the average attendance of all those schools in the aggregate. A comparison of meal claims to attendance cannot be reliable without considering attendance from all sites that are fed at a claiming location.
- There are 424 meal-claiming locations at which OIG asserts that meal claims exceeded attendance in one or more months. (For the remaining 243 sites, the OIG did not assert possible excess claims.) A comprehensive identification of which of the 424 locations fed school or school programs that report their attendance separately from the claiming location's school would have been extremely difficult to do, even at the time, because of the lack of a “crosswalk” between meal claiming and attendance sites. The task is even more daunting now because the organization of schools and school programs within the New York City system has been changing continuously since 1998-99. However, we have made significant strides in the development of a current crosswalk and are committed to the success of the process.¹⁶

¹⁵ Many larger schools have been broken up by floors or otherwise into smaller “academies” or “mini-schools” that report their attendance separately. Special education school units, pre-kindergarten and vocational programs also may report attendance separately from general education schools located in the same building.

¹⁶ The previous unavailability of the crosswalk should be viewed in the context of our school system, as well as the scope of the project. The constant change of school organization in New York City flows from urgent efforts to grapple with new ideas (e.g., smaller schools, or the discontinuance and breakup of failing schools)

- One way to try accounting for instances in which a meal site feeds children from more than one attendance-reporting location is to compare meal claims with attendance on a system-wide basis, using the same methodology and OSFNS and ATS data sources that the OIG used in doing its analysis on a school-by-school basis. For school year 1998-99, the OSFNS database reflects that, for all New York City schools, including non-public schools, there was a monthly average of 732,603 free-lunch approved children and that those children had an average daily meal participation of 551,626, or 75.3%.¹⁷ This percentage is well below the 88% average attendance figure recorded by the ATS system for school year 1998-99. Thus, a meal claims-attendance comparison for the entire system, rather than just on a school-by-school basis for a portion of the schools, would not have found a potential excess of meal claims over attendance. We recognize that this system-wide analysis does not preclude a finding of erroneous claiming at particular schools. Nor do we denigrate the value of a school-by-school comparison – which we in fact will perform in our new edit check – because we acknowledge the need for better controls to prevent erroneous meal-claiming. But because the OIG (understandably) could not account for the meal site-multiple attendance-reporting situation, it should include in its final report a system-wide analysis, or at least refrain from publishing figures concerning possible excess claims, because such quantification is simply not verifiable based on the audit information.
- As we previously shared with the OIG and FNS, in a review of fourteen meal-claiming locations, comprising \$217,278 of the total of \$982,210 in potential excess meal reimbursement cited by the OIG,¹⁸ five of those locations, accounting for \$86,100 in potential excess claims, fed children who were not on the schools' register in SY 1998-99, according to the schools.¹⁹ While the calculation could go in either direction, and we do not

that are designed to raise academic performance and meet the requirements of our massive and diverse student population. In addition, we organize scores of special education schools and “alternative high schools” for the most needy segments of the population. Such schools often have numerous sites spread across the city, which may or may not have available cafeterias. Furthermore, the deteriorating condition of many of our old school buildings and the inadequate space for classrooms in many parts of the city require that special arrangements be made for educating and feeding students at locations different from those at which their attendance is reported. While the jobs of the non-pedagogues among us would be made a lot easier if we could adhere to the traditional one school-one building model, it should be recognized that we are in the education business and that the educational needs of children take precedence over the convenience of administering ancillary services such as meals.

¹⁷ The DOE claimed 97,792,245 free lunch meals for the approximately 180-day 1998-99 school year.

¹⁸ These 14 schools had eight or more months of alleged excess claims over attendance in SY 1998-99 where the excess, if it actually existed, would average more than \$1,000 per month.

know whether and to what extent the situation explains possible excess claims, it could result in an artificially low ATS attendance factor if the average attendance percentage of the “home” school was lower than the average attendance percentage of other school or school programs whose attendance is reported elsewhere.

- Contrary to the statement in the DAR (pp. iii, 15), the Department has not confirmed that the meal claims of eight of the fourteen schools did in fact exceed attendance and that there was excess reimbursement of \$120,210. While those schools did not believe they fed children from other attendance-reporting sites in 1998-99, and some of them have suggested that the cause of the excess of claims over attendance was errors in recording meals, there are also other possibilities for the discrepancies, as outlined herein; the ultimate determination should be made by FNS.
- We recognize that an excess of meal claims to attendance can sometimes be attributed to over-counting student meals, and acknowledge the need for performance improvement in this area.²⁰ However, there is a limit to the precision of any counting process of attendance and meals, particularly in urban schools where classroom and student management are often a significant challenge.²¹ Consequently, a meal claims-attendance comparison is not necessarily a reliable gauge of over-claiming where the over-claim is of a small magnitude or limited duration. We note that at 201 of the 424 meal-claiming locations at which the OIG asserts meal claims in excess of attendance, the average potential excess claim per month was less than \$400 – approximately ten or fewer meals per day in excess of the figure derived from average attendance. These 201 schools comprise 549 of the 1,440 months for which the OIG raises the possibility of excess claims, and \$35,389 of those possible excess claims.
- In addition, only 21 of the 424 meal-claiming locations had possible excess claims for all ten months of the school year, while only another 17 had

¹⁹ At eight of the sites, staff believed that no students from other attendance-reporting sites ate at those locations in 1998-99. We have not been able to determine the situation at the one remaining site, where the principal in SY 1998-99 has left.

²⁰ We have acknowledged the need for more focused monitoring and accountability for monitoring results in our corrective action plan. We recently cautioned schools that they must not record lunches served to students who appear without lunch money as free lunches without regard to whether they were eligible for free lunch. See n. 13 above.

²¹ An excess of claims also can result from an inadvertent failure to capture all attendance. A student may miss the official taking of attendance (especially in middle school or high school) and therefore be marked absent for the day, yet come for a particular class or classes – or for lunch only. While the school is supposed to reverse the absence and mark the child present but late where a child attends later classes, this change does not always occur. Attendance also may be understated relative to meal claims because there may be classes from one school that visit and eat at another school only on a particular day or days (e.g., for a class trip).

possible excess claims for nine of the ten months and another 18 had possible excess claims for eight of the ten months.²² Moreover, there was no indication of possible excess claims in 66% of the months in the 424 schools that had one or more alleged possible excess claims. Were the schools truly claiming children without regard to who actually passed through the lunch line, one would expect a higher percentage of meal-claiming locations with possible excess claims in all or at least almost all months of the school year.

- Finally, any attempt to determine excess claims would have to account for the fact that excess claims in one category could well result in partial under-claims in another category. Thus, where a child should not have been claimed for free lunch reimbursement, he or she might well have been claimable for reimbursement for reduced price lunch, and certainly for paid lunch. As we previously shared with the OIG and FNS, a portion of possible excess free lunch claims, even if shown to be actual excess reimbursement, would be offset if the alleged excess free lunch students were reduced-price eligible. (There also would be potential under-claims of paid lunches at both sites that could have further offset any excess free lunch claim.)

On a separate note, we believe that the OIG's workpapers indicate that seven (not nine, as stated at DAR 14) of the 35 schools that OIG field-visited had one or more days of meal claims in excess of attendance.

B. The DOE's Plan to Check Meal Claims Against Attendance

Our notation of factors that limit the verifiability of the meals-claims-attendance statistics cited in the draft report in no way qualifies our commitment to performance improvement in this area. Towards that end, beginning later this school year, the DOE will use an improved "edit check" to help detect instances in which meal claims may potentially exceed students in attendance, by school lunch category. Our Department of Instructional and Information Technology (DIIT) and OSFNS are well into work on the first and absolutely critical step, the development of a "crosswalk" between attendance reporting sites and meal claiming sites, a substantial undertaking in view of the complexity of school organization and feeding locations.²³

On a monthly basis, we will compare our school lunch reimbursement claims, by school lunch category, with the actual attendance days in each lunch category recorded in

²² As the analysis above concerning the fourteen schools suggests, locations with a large number of months of alleged overclaims in some cases may reflect the meal location's service of students not on the register of the school at that location.

²³ Another key step to implementing the improved edit check is our intention, as set forth in section I.C above, to require that meal rosters used by schools be generated based on information concerning lunch eligibility recorded in the DOE's student information system, ATS.

ATS, at the school level.²⁴ Where the meal claim in a category exceeds the attendance figure, the DOE will investigate the claim (e.g., attempt to determine the source of the discrepancy, examine daily attendance information) and, where the number of meal claims is determined not to be supported by attendance information, we will adjust the claim or amend the claim if it already has been submitted. This tool will fortify efforts to assure that claiming does not exceed attendance.²⁵

III. Meal Counting and Claiming Procedures in DOE Schools

A. Finding 4 and Recommendations 11-12

Based on deficiencies noted during school visits in the course of the OIG's audit, the OIG has urged the SED and DOE to implement more effective oversight of the schools' meal count and claiming practices, including for follow-up to correct deficiencies in the schools. The OIG suggests that the process for OSFNS's technical assistance visits "needs to be reassessed for its effectiveness to include: the resources devoted to conducting the monitoring visits, the comprehensiveness of the reviews, and the corrective action and follow-up process." (DAR 17-18).

It should be remembered that, like any field visit, OSFNS's technical assistance visits are just snapshots in time: if procedures are being followed on the day of the visit, there will be no finding or identified need for follow-up. The limited opportunity for identifying problems is exacerbated by the regulatory requirement that a school district visit all feeding sites – almost 1,600 in the case of the DOE – by February 1 of each year. This requirement treats the school district with ten schools the same as a gargantuan district like the DOE.

B. The DOE's Plan to Improve Meal Accountability in the Schools

²⁴ Specifically, free lunch claims will be compared to attendance days recorded in the free lunch categories (i.e., those determined eligible based on the computer match as well as those on information on applications or submission of direct certification letters); reduced-price lunch claims will be compared to attendance days recorded in the reduced-price lunch categories; and paid lunch claims will be compared to attendance days recorded for all other enrolled students, i.e., those determined eligible only for paid lunch based on submission of an application, and those students for whom there is no meal data in the system (no computer match, and no application or direct certification letter submitted).

²⁵ We are uncertain as to the meaning of OIG's recommendation that the DOE record daily attendance on meal claim forms and perform the "edit check using daily attendance and daily meal counts." (DAR 15). The monthly edit check proposed above will be a composite of actual daily attendance information and daily claim information for the month. If, however, OIG intends that the edit check be performed daily, we respectfully must disagree. Such action is well beyond regulatory requirements even where the "edit check" requirement is triggered by the regulations (and we do not believe it is here). Moreover, such a check is unworkable, unnecessary, and would create an unfunded mandate for a system of more than one million children. Most of all, comparing daily morning attendance to meal counts could foster, rather than prevent, inaccuracy, because of children who arrive late and are not accounted for in the initial taking of attendance, and of other corrections that occur before final figures are officially recorded on a monthly basis. In any case, the DOE's plan to compare, by meal category, attendance with meal claims on a monthly basis, and to investigate potential discrepancies identified by the edit (including by examining daily attendance figures where appropriate) provides a more than adequate safeguard.

We believe that the concerns noted by the OIG can be effectively addressed in two principal ways: (1) permitting the OSFNS's Task Force Technical Advisors (TFTAs) to focus intensively on schools with a higher risk of having deficiencies in meal counting and claiming by granting a waiver to the DOE from the regulatory requirement that all 1,600 feeding sites be visited by February 1 of each year, and (2) strengthening schools' accountability by including information concerning the results of OSFNS reviews, and any pertinent internal or external school meal audits, in the evaluation of superintendents. We are awaiting word on our waiver request, a copy of which we have previously provided the OIG.

The computer match of public assistance and food stamps with DOE students that we intend to use (see Section I.C above) will reduce the number of students whose eligibility is determined through the application process. The reduction of applications, in turn, by streamlining the process and limiting the paperwork at the school level, should allow the schools to perform better in the first instance and to take more prompt and thorough corrective action as a result of the OSFNS visits. School performance, particularly in the incorporation of eligibility changes in meal rosters, also should improve as a result of the plan discussed above to require that meal rosters used by elementary schools, and meal eligibility identifiers (e.g., cards, stubs) used in middle schools and high schools, be generated based on information concerning lunch eligibility recorded in the DOE's student information system, ATS.

Relieving the OSFNS monitors of the obligation to visit all 1,600 feeding sites in the technical assistance visits will allow OSFNS to better identify and focus more specifically on deficiencies that exist despite these process improvements, and on corrective follow-up. The effectiveness of the TFTA visits will be further enhanced by strengthening accountability at all levels beginning at the school, by including consideration of performance on school lunch control issues, including implementation of corrective action, in the annual evaluation of superintendents.

Specifically, the Department will take the following measures.

1. OSFNS already is in the midst of a four-year project to phase as many "Title I" schools — the schools with the highest poverty percentages — into the Universal School Meals program as possible. Part of this program is to provide extensive technical assistance to those schools in their base year (both new Universal School Meals schools and those that are reapplying after their four-year term has expired), a group that may total between 200 to 250 schools. It makes sense to have TFTA advisors focus on these schools, both because it is important that the process be done correctly in the base year, and because these schools are likely to have the highest percentage of free lunch applicants.
2. OSFNS proposes that next year (in addition to focusing on Universal School Meals schools in their base year) it will identify a group of additional schools that are higher-risk and focus intensive TFTA efforts on those schools as well,

to bring the total of schools that would receive more intensive coverage to approximately 500 or 30% of all sites. These additional schools will be chosen on the basis of such factors as past deficiencies identified in internal or external audits or reviews and also could include new schools or new feeding sites. The identity of the additional schools selected will change at least to some extent every year (e.g., improved schools may be replaced by other schools so that schools not previously or recently selected will not become complacent). To meet this goal of improved coverage, we are requesting a waiver from the USDA from the requirement of visiting all schools and propose that the NYC Department of Education be deemed to have met its annual regulatory obligation by visiting the 500 schools.

3. The results of technical assistance visits, including any students found to have been incorrectly determined eligible, will be recorded by the TFTAs and will be reported promptly to the principal. Likewise, the TFTAs will advise principals of the need to change eligibility status in ATS (the student based information system) as the result of the verification process or any internal or external audit or review. Where possible and permissible, the TFTAs will request that corrective action be taken at the time of the visit. Where corrective action cannot be achieved at the time of a visit, principals will be required to document that the required action was taken subsequently. The TFTAs also would request further action where appropriate as a result of procedures related to the new meal claim-attendance edit check discussed above. We also plan to post findings from TFTA visits on the OSFNS website to further induce schools to take corrective action and to provide documentation that corrective action has been taken.
4. In follow-up visits of each school requiring corrective action, the TFTAs will document the extent to which the school has taken required corrective action, including as it pertains to eligibility. Any material failure by a school to take required corrective action will be reported by the TFTAs to the pertinent superintendent for that district and posted on the website by February 1 of the school year for further action. The superintendent will be asked to report back to the TFTAs so that any corrective action can be reflected on the website.
5. Significant deficiencies and significant failure to correct deficiencies, if any, found in technical assistance visits and follow-up visits, or in the verification process or any internal or external school meal-related audit, whether or not related to eligibility determinations, will be reported annually by OSFNS to principals, superintendents, senior superintendents and a designated Deputy Chancellor. The annual evaluations of superintendents will include their performance in relation to school lunch control issues and the correction of identified deficiencies. (That, in turn, will provide incentive for superintendents to include school lunch accountability in their evaluations of principals.)

6. We previously have identified other recent measures taken to emphasize the importance of accuracy and accountability in the school lunch process. See n. 13 above.
7. The Office of Auditor General, directly or through a third-party, will review implementation of the action plan outlined in this response at the end of the current school year.

IV. Retention of Applications in Base Year of Universal Meals Program

A. Finding 5 and Recommendation 12

The OIG found that some USM (Provision 2) schools did not retain base-year applications, as required by regulation. The OIG recommends that the SED require that, if schools do not retain applications, they should be required to go through the application process again prior to receiving an extension under the program. The DOE requires and will continue to require its schools to retain applications for whatever period is stipulated by regulation. We do not believe a shortfall in this practice should require obtaining new applications, particularly since we are focusing technical assistance visits on base-year schools, and we are aware of no legal authority for such a step.

cc: John Magnarelli
Regional Director
U.S. Department of Agriculture

ABBREVIATIONS

CFR	
Code of Federal Regulations.....	1
FNS	
Food and Nutrition Service.....	i
NSLP	
National School Lunch Program.....	i
NYC-BOE	
New York City Board of Education.....	31
OIG	
Office of Inspector General	i
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