



## **IMPORTANT NOTICE**

This audit report contains sensitive information that has been redacted for public release, due to privacy concerns.



# New York's Controls Over Summer Food Service Programs

## Audit Report 27004-0001-23

We reviewed the New York State agency's controls for operating under SFSP requirements and sponsor and site compliance with those requirements. We have reported our separate findings in an interim report dated November 2017 and this final report.

### OBJECTIVE

Our audit objective was to determine whether New York had adequate controls in place to reasonably ensure that SFSP was operating under program requirements. Specifically, our objective was to (1) evaluate the adequacy of the State agency's controls over SFSP sponsors and (2) determine if selected sponsors and sites were in compliance with program requirements.

### REVIEWED

We non-statistically selected five sponsors based on SFSP reimbursement amounts, sponsor types, site types, site locations, and food service operations. We performed field visits from June through August 2017 at 25 non-statistically selected sites operated by the 5 SFSP sponsors. The scope of our audit work covered program activities from fiscal years 2014 through 2016.

### RECOMMENDS

We recommend that FNS direct the State agency to develop and implement review procedures to identify and address sponsor noncompliance, confirm and recover unsupported and questionable costs, and direct identified sponsors to provide additional training and monitoring to their sites.

### WHAT OIG FOUND

The Summer Food Service Program (SFSP) provides nutritious meals for children in low-income areas when school is not in session. The New York Education Department (State agency) oversees and reimburses sponsors for serving the Food and Nutrition Service's (FNS) SFSP meals. In order to effectively operate the SFSP, the State agency must have adequate controls that ensure compliance with FNS requirements.

We found that all five of the New York SFSP sponsors we reviewed had multiple instances of sponsor noncompliance, including unsupported and questionable costs and reimbursements, inaccurate meal reimbursement rates, and recurring issues from previous reviews. State agency officials did not detect or correct these noncompliances because they did not adequately review sponsor information or did not take sufficient corrective action on any errors they found. Additionally, we found that sponsor oversight needs improvement. We found that 6 of the 10 meal sites we visited had 14 SFSP noncompliances, including improper meal counts, incomplete delivery receipts, and other issues. These occurred because sponsors did not ensure that site staff were trained adequately or the sites were monitored sufficiently. We also found that one of the five sponsors we reviewed did not comply with outreach requirements due to its lack of awareness of program requirements.

As a result of these as well as additional findings, there was reduced assurance of program integrity. FNS generally agreed with our recommendations and we accepted management decision on all 18 recommendations.





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



DATE: September 24, 2018

AUDIT  
NUMBER: 27004-0001-23

TO: Brandon Lipps  
Administrator  
Food and Nutrition Service

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

FROM: Gil H. Harden  
Assistant Inspector General for Audit

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

This report presents the results of the subject audit. Your written response to the official draft report, dated September 6, 2018, is included in its entirety at the end of this report. Your response and the Office of Inspector General's (OIG) position are incorporated into the relevant sections of the report. Based on your written response, we are accepting management decision for all 17 audit recommendations in the report, and no further response to this office is necessary.

In accordance with Department Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. Please follow your internal agency procedures in forwarding final action correspondence to OCFO.

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



## **Table of Contents**

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<b>Background and Objectives .....</b>	<b>1</b>
<b>Section 1: State Controls .....</b>	<b>3</b>
<b>Finding 1: State Administrative Review Process Needs Improvement .....</b>	<b>3</b>
<b>Recommendation 1 .....</b>	<b>8</b>
<b>Recommendation 2 .....</b>	<b>8</b>
<b>Recommendation 3 .....</b>	<b>9</b>
<b>Recommendation 4 .....</b>	<b>10</b>
<b>Recommendation 5 .....</b>	<b>10</b>
<b>Recommendation 6 .....</b>	<b>11</b>
<b>Recommendation 7 .....</b>	<b>11</b>
<b>Recommendation 8 .....</b>	<b>12</b>
<b>Recommendation 9 .....</b>	<b>12</b>
<b>Recommendation 10 .....</b>	<b>13</b>
<b>Recommendation 11 .....</b>	<b>13</b>
<b>Section 2: SFSP Sponsor Controls.....</b>	<b>15</b>
<b>Finding 2: Sponsor Oversight Needs Improvement .....</b>	<b>15</b>
<b>Recommendation 12 .....</b>	<b>17</b>
<b>Recommendation 13 .....</b>	<b>18</b>
<b>Recommendation 14 .....</b>	<b>18</b>
<b>Recommendation 15 .....</b>	<b>19</b>
<b>Finding 3: Sponsor Did not Comply with Outreach Requirements.....</b>	<b>20</b>
<b>Recommendation 16 .....</b>	<b>21</b>
<b>Recommendation 17 .....</b>	<b>22</b>
<b>Recommendation 18 .....</b>	<b>22</b>
<b>Scope and Methodology .....</b>	<b>24</b>
<b>Abbreviations.....</b>	<b>26</b>
<b>Exhibit A: Summary of Monetary Results .....</b>	<b>27</b>
<b>Exhibit B: State Agency Sponsor Visits .....</b>	<b>28</b>
<b>Exhibit C: Sponsor Noncompliance Issues .....</b>	<b>29</b>
<b>Exhibit D: Site Noncompliance Issues.....</b>	<b>30</b>
<b>Agency's Response .....</b>	<b>31</b>



# Background and Objectives

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## Background

The National School Lunch Act authorized the Summer Food Service Program (SFSP) to provide free meals to children in low-income areas when school is not in session.<sup>1</sup> In fiscal year (FY) 2016, SFSP provided roughly \$472 million to serve approximately 153 million meals and snacks to at-risk children at nearly 48,000 sites. In FY 2016, 348 sponsors participated in New York's SFSP. These sponsors operated over 2,900 sites and received SFSP reimbursements totaling more than \$60 million, making it the largest State in the country in terms of SFSP funding.

The Food and Nutrition Service (FNS) and State agencies administer SFSP. FNS awards SFSP funding to State agencies and provides oversight to ensure that States properly administer and monitor the program. According to Federal regulations and FNS instructions, State agencies are responsible for multiple activities that include:

- Performing adequate outreach to ensure communities are aware of SFSP;
- Disseminating State and Federal policy for SFSP administration;
- Establishing a financial management system;
- Reviewing and approving sponsor applications;
- Reimbursing sponsors for meals served to eligible children at approved sites;
- Monitoring sponsors and sites by conducting administrative reviews at least every 3 years that examine program records and observe site meal service operations to ensure staff meet program requirements; and,
- Providing sufficient technical assistance, training, and guidance to sponsors.

In New York, the New York State Education Department (State agency) is responsible for these activities. The State agency reimburses sponsors for serving SFSP meals (breakfast, lunch, supper, or snacks) that meet program meal requirements.<sup>2</sup> The reimbursements are based on the number of eligible served meals multiplied by a designated rate.<sup>3</sup>

SFSP sponsors manage sites that provide the meals to children. Sponsors include school food authorities or public or private nonprofit organizations (such as local government entities or

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<sup>1</sup> In 1946, Congress signed into law the National School Lunch Act, now the Richard B. Russell National School Lunch Act (NSLA), which first established the National School Lunch Program. NSLA has been amended several times, most recently in 2016. In 1968, section 13 of the NSLA was amended to pilot SFSP, which became a separate, permanent program in 1975.

<sup>2</sup> The program regulations establish minimum food component requirements for meals served to children in SFSP. There are four categories of food components: (1) vegetables and fruits, (2) bread and bread alternates, (3) milk, and (4) meat and meat alternates. Not all components are required for all meal types. The regulations also include a few exceptions to and variations from the meal pattern. 7 C.F.R. § 225.16 (d-f).

<sup>3</sup> The designated rate (a combination of operational and administrative costs) is set each year by a legislative formula that incorporates the Consumer Price Index. The rates for rural and self-prep sites are higher than for all other types of sites. Additionally, the rates for sites in Alaska and Hawaii are higher than for those sites in the continental United States.

community non-profit agencies) that could manage multiple State-approved sites. Sponsors must operate their food service in accordance with Federal and State SFSP requirements, including:

- Properly accounting for program funds and ensuring program costs are allowable;
- Maintaining accurate records that justify all costs and meals claimed for 3 years;
- Only claiming SFSP meals for reimbursements that meet program requirements;
- Monitoring site compliance with program requirements;
- Meeting training requirements for their administrative and site personnel;
- Maintaining proper sanitation and health standards in accordance with State and local laws;
- Retaining financial and administrative responsibility for its program operations; and
- Meeting program outreach requirements.

The sponsors' sites provide SFSP meals free to children. Sites are eligible to participate in the program if they are located in low-income areas or serve children who meet eligibility requirements.<sup>4</sup> Most sites are categorized as either *open*, with meals available to all children in the area; *restricted open*, when attendance is limited for safety or control reasons; or *closed enrolled*, where only enrolled children are served.

## Objectives

Our audit objective was to determine whether New York had adequate controls in place to reasonably ensure that SFSP was operating under program requirements. Specifically, our objective was to (1) evaluate the adequacy of the State agency's controls over SFSP sponsors and (2) determine if selected sponsors and sites were in compliance with program requirements.

This audit was one in a series of recent audits related to SFSP. It was performed in conjunction with similar reviews of the States of California, Florida, and Texas. During the course of these State reviews, interim reports were issued to provide results regarding sponsor compliance with SFSP regulations and policies related to State and local food safety requirements.<sup>5</sup> Additionally, we performed an audit of FNS to determine whether FNS had adequate controls in place to reasonably ensure States complied with SFSP regulations and other requirements.<sup>6</sup> Upon completion of the State audits, we will consider the results with the issues we identified in our FNS audit and provide an assessment of the overall program in the final rollup SFSP audit of this series.

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<sup>4</sup> "Low-income area" means that half the children in the area or group are eligible for free or reduced-price school meals.

<sup>5</sup> *California's Controls Over Summer Food Service Program Interim Report* (Audit Report 27004-0001-41(1), Sept. 2017); *Florida's Controls Over Summer Food Service Program Interim Report* (Audit Report 27004-0001-31(1), Sept. 2017); *Texas's Controls Over Summer Food Service Program Interim Report* (Audit Report 27004-0003-21(1), Sept. 2017); *New York's Controls Over Summer Food Service Program Interim Report* (Audit Report 27004-0001-23(1), Nov. 2017).

<sup>6</sup> Audit Report 27601-0004-41, *FNS Controls Over Summer Food Service Program*, March 2018.

## Section 1: State Controls

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### Finding 1: State Administrative Review Process Needs Improvement

At all five of the SFSP sponsors we reviewed, we found instances of sponsor noncompliance that included unsupported and questionable costs and reimbursements. This occurred because State agency officials did not adequately review these SFSP sponsors. Additionally, during a prior administrative review, State agency officials did not expand their review or require comprehensive corrective actions to resolve meal reimbursement issues at all the sponsors' sites. Due to these noncompliances, sponsors used \$66,551 of SFSP funds for unsupported and questionable costs, were compensated \$3,541 for questionable reimbursements, and may have received \$26,037 for questionable reimbursement related to inaccurate meal rates.

SFSP regulations require that the State agency must review sponsors and sites at least once every 3 years to ensure compliance with program regulations and any other applicable instructions issued by the Department.<sup>7</sup> As part of this administrative review process, whenever the State agency observes violations during the course of a site review, it shall require the sponsor to take corrective action. If the State agency finds a high level of meal service violations, the State agency shall require a specific immediate corrective action plan to be followed by the sponsor and either conduct a followup visit or in some other manner verify that the specified corrected action has been taken.<sup>8</sup>

We found that, overall, the five SFSP sponsors we reviewed did not consistently comply with SFSP regulations and/or guidance. Specifically, we found that: (1) four of the five sponsors used SFSP funds for unsupported and questionable costs, (2) all five sponsors requested SFSP funds for questionable reimbursements for meal claims, and (3) one sponsor received questionable reimbursement for meals at an inaccurate rate. This occurred because State agency officials did not adequately review these sponsors or ensure past corrective actions were adequately implemented. For example, State agency officials conducted an administrative review in 2015 of one of the SFSP sponsors that we reviewed. The State agency noted operational and administrative findings at Sponsor A.<sup>9</sup> We found that the two issues identified by the State agency at one of Sponsor A's sites in 2015 persisted at a different Sponsor A site. This occurred because the State agency, as a best practice, did not expand its review to include additional sites to ensure corrective actions were effective. If the State agency had reviewed more sites based on the results of its State administrative review of Sponsor A and ensured that corrective actions were effective, the State agency may have mitigated the noted underlying issues. Therefore, we concluded that the State agency administrative reviews were not effective to identify or resolve issues found by the State agency.<sup>10</sup>

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<sup>7</sup> 7 C.F.R. § 225.7 (d) (2).

<sup>8</sup> 7 C.F.R. § 225.11 (f) (1).

<sup>9</sup> The State agency's review of Sponsor A identified a total of five operational and administrative findings.

<sup>10</sup> All noncompliances found during our review are not discussed in the body of this report. Exhibit C is a listing of sponsor noncompliance issues found during our audit. Within the finding, we provide examples to explain some of the issues.

### *State Agency Did Not Identify Unsupported and Questionable Costs*

We found unsupported and questionable costs totaling \$66,551 at four of the five sponsors we reviewed because the State agency administrative reviewers did not adequately perform reviews to determine if costs were allowable.<sup>11</sup> For example, we identified unsupported costs pertaining to salary expenses for Sponsor E in 2015 and 2016 totaling \$37,697 due to insufficient documentation.<sup>12</sup> The sponsor did not provide documentation supporting the SFSP activities of the Chief Executive Officer (CEO) to coincide with the expensed salary costs. The State agency conducted an administrative review in 2015, but State officials did not question this salary cost (the largest administrative expense) during its review. In addition, the State agency did not question the lack of documentation for the salary expense allocated. The State agency officials said that a 35 percent increase in salary costs attributed to the CEO should have raised a red flag and been questioned by the reviewer. Therefore, we identified unsupported salary costs of \$19,233 in 2015 and \$18,464 in 2016 for Sponsor E.

In another example, we found that Sponsor D used \$16,082 SFSP funds for retiree healthcare benefits, a questionable cost.<sup>13</sup> Although State agency officials said retiree healthcare benefits would be allowable,<sup>14</sup> FNS national officials stated that healthcare costs for these retired employees were unallowable. Therefore, we concluded that State agency officials need guidance and training on what SFSP costs are allowable. As a result, Sponsor D used \$16,082 of SFSP funds for questionable costs.<sup>15</sup>

### *State Agency Did Not Identify Questionable Meal Reimbursements*

We found questionable meal reimbursements at all five sponsors (meal count inaccuracies) because the State agency did not ensure that its sponsors were properly consolidating meal claims for submission. Federal regulations require that sponsors maintain accurate records that justify all costs and meals claimed. Failure to maintain such records may be grounds for denial of reimbursement for meals served.<sup>16</sup> We obtained daily meal count sheets for all sites of each sponsor for July 2016, and then calculated the consolidated total meal counts for each sponsor since reimbursement is by sponsor total and not by each site. Based on the comparison, we identified net overclaims at four sponsors (A, C, D, and E) in the amount of \$2,911. For example, we calculated the July 2016 monthly meal count for Sponsor D and found it totaled 51,296

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<sup>11</sup> Total unsupported and questioned costs equals \$66,551: Sponsor E (\$37,697), Sponsor D (\$16,082), Sponsor C (\$12,014), and Sponsor B (\$758).

<sup>12</sup> We also found unsupported costs (\$10,460) for Sponsor C in 2016. Based on our review, the sponsor official was responsible for the administration of the program, such as preparation of claims for reimbursement, monitoring activities, and maintenance of program documentation. OIG did not question the official's involvement in the program; however, there was a lack of documentation to support the salary expense. The sponsor was unable to provide labor and/or payroll records to support the amount of salary expense claimed.

<sup>13</sup> We noted that the State agency performed a State administrative review of Sponsor D in October 2014; therefore, the questioned healthcare costs were outside the scope of its review.

<sup>14</sup> FNS Instruction 796-4, Rev. 4, Section X (A)(1), (April 1994).

<sup>15</sup> We also found questionable costs (\$758) related to building repairs and internet costs for Sponsor B that were not identified by the State agency administrative review completed in 2016, and we found that Sponsor C (\$1,554) used SFSP funds for questionable costs including a luncheon and a youth program.

<sup>16</sup> 7 CFR § 225.15 (c).

breakfasts and lunches. However, the sponsor submitted a meal reimbursement claim for July 2016 based on total meal counts of 51,762 (466 more meals). The net overclaim was valued at \$1,568. The number of inaccuracies we found indicates that the State agency was not adequately reviewing these meal reimbursements for accuracy during the past State administrative reviews.<sup>17</sup>

Additionally, we found questionable meal reimbursements at two sponsors because the meal caps were exceeded. Sponsors C and D exceeded their approved maximum number of meals several times during our review of July 2016 meal reimbursement claims.<sup>18</sup> For example, Sponsor D exceeded approved daily site caps at eight different sites for a total of 147 meals. SFSP regulations require sponsors of vended sites<sup>19</sup> to have an approved maximum number of meals to be served<sup>20</sup> and to disallow meals served to children at any vended site in excess of the approved level of meal service.<sup>21</sup> In 2015, FNS issued a memorandum that reiterated program regulations requiring State agencies to disallow meals served to children at any vended site in excess of the approved site caps.<sup>22</sup> However, the State administrative review did not identify individual instances when meals served were in excess of the approved level of meal service. State agency officials said that their reviews of sponsors and meal levels for their sites are done with a “global approach.” The State agency does not determine whether a site exceeds its site cap on a daily basis and the State agency will only review these numbers if the problem is recurring or pervasive.

#### *State Agency Did Not Identify Inaccurate Meal Reimbursement Rates*

We found that Sponsor E used vendors to obtain unitized meals with SFSP funds. The unitized meal requirement specifies that the meal components (except the milk or juice) must be portioned, packaged, delivered, and served as a unit. However, the sponsor’s reimbursement for these vended meals was based upon self-preparation (self-prep) SFSP reimbursement rates. Therefore, SFSP reimbursements from 2014 through 2017 were \$26,037 higher than the sponsor’s SFSP reimbursements would have been under the lower, vended reimbursement rate.<sup>23</sup>

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<sup>17</sup> Generally, issues noted during our review of July 2016 reimbursements were outside of the scope of the State agency’s most recent State administrative review of the sponsors; however, the State agency’s administrative reviews include meal reimbursements at selected sponsors and sites.

<sup>18</sup> We calculated meal reimbursement claims exceeding meal caps by determining whether meal claims by sponsor, site, and day, exceeded the meal caps shown in the State agency’s Child Nutrition Management System (CNMS), by sponsor and site on a daily basis. We analyzed meal reimbursement claims submitted and approved for the month of July 2016, and we found Sponsors C and D received reimbursements in excess of their meal caps with a value of \$630.

<sup>19</sup> A *vended site* is a site that serves meals purchased by the sponsor from a food service management company.

<sup>20</sup> 7 C.F.R. § 225.6 (d) (2).

<sup>21</sup> 7 C.F.R. § 225.9 (f) and 7 C.F.R. § 225.11 (e) (3).

<sup>22</sup> SFSP 16-2015, *Site Caps in the Summer Food Service Program: Revised* (April 2015).

<sup>23</sup> We calculated this amount by using Sponsor E’s SFSP Claim History from the State agency’s Child Nutrition Management System, through which the State agency paid claims based on the meals claimed multiplied by the reimbursement rate, by meal type (in other words, the breakfast, lunch, and snack reimbursement rates). The State agency reimbursed Sponsor E based on the higher self-prep reimbursement rate; we calculated the difference

Federal regulations define a vended sponsor as “a sponsor which purchases from a food service management company the unitized meals, with or without milk, which it will serve at its site(s).” A self-prep sponsor is defined as “a sponsor which prepares the meals that will be served at its site(s) and does not contract with a food service management company for unitized meals, with or without milk, or for management services.”<sup>24</sup> The self-prep reimbursement rate is higher than the vended reimbursement rate. For example, in 2016, the rural or self-prep reimbursement rate for a lunch was \$3.745, whereas the reimbursement rate for all other types of sites was \$3.685.

In our review of Sponsor E’s breakfast portion of SFSP, we found two vendors provided breakfasts directly to the sponsor’s warehouse, even though the sponsor identified itself and was reimbursed as a self-prep sponsor. The sponsor took these items from the warehouse and brought them to the SFSP site, so the sponsor identified as self-prep and the State agency allowed the sponsor to operate as self-prep. We discussed this issue with FNS national officials who stated the sponsor should have been classified as a vended sponsor.<sup>25</sup>



**Figure 1: A unitized breakfast meal used by Sponsor E in the delivery of SFSP. The unitized meal contains a multi-grain cereal, a whole grain snack, and applesauce (left photo). A self-prep operation at Sponsor B with meal components being added to a meal tray (right photo). Photos by the Office of Inspector General (OIG).**

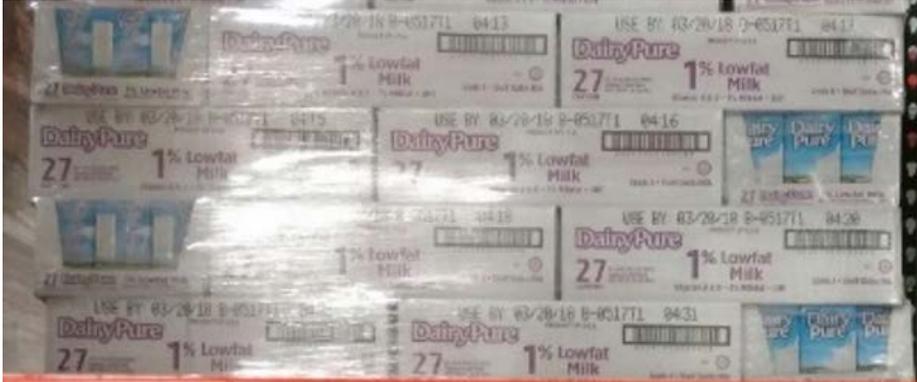
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between the amount the State agency reimbursed Sponsor E and what the total reimbursements would have been using the same number of meals claimed multiplied by the lower, vended reimbursement rate.

<sup>24</sup> 7 C.F.R. § 225.2.

<sup>25</sup> During the agency closeout meeting, FNS stated that it would need to work with the FNS regional office in order to ensure that FNS national office officials fully understood the facts and circumstances surrounding the issue of the sponsor’s status as self-prep, and not vended.

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**Figure 2: Shelf-stable milk used by Sponsor E in the delivery of SFSP. Sponsor E SFSP sites serve the milk and the unitized meals (Figure 1) to children during breakfast. Photo by OIG.**

We found the State agency performed a State administrative review of the sponsor in 2015, in which the reviewer indicated that Sponsor E was not a self-prep sponsor although it was reimbursed at the self-prep rate; however, the State agency took no action to correct this issue. Additionally, the State agency did not document the basis for its determination that the sponsor would maintain the self-prep identification and continue to receive the higher, self-prep reimbursement rate.

During our review, we also noted that Sponsor E did not use formal contracts with its vendor for SFSP lunches, even though vendor costs were more than \$179,000 and \$234,000 in 2015 and 2016, respectively. This amount is above the simplified acquisition threshold of \$150,000.<sup>26</sup> The State agency did not question vendor costs nor document the basis for its determination during the State administrative review of Sponsor E performed in 2015.<sup>27</sup> State agency officials stated they would review Sponsor E again in 2018, but did not know why the SFSP vendor costs above the simple acquisition threshold were not identified on the administrative review. As a result, the State agency cannot ensure that the large purchases from a single vendor were obtained through competitive bids and minimum food specifications and meal quality standards were included in the contract specifications.

We discussed all our issues with the State agency officials, who generally agreed with our conclusions. In some cases, the State agency officials agreed with our noted issues and stated that they would focus on those issues during upcoming State administrative reviews. In other cases, State agency officials explained they do not have the resources to detect all errors during State administrative reviews, such as reviewing all daily meal claims and SFSP costs.<sup>28</sup> Finally, the State agency said it believes Sponsor E acted in good faith in classifying itself as a self-prep sponsor, but agreed to work with FNS to determine whether payments should have been at the lower, vended rate.

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<sup>26</sup> The simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods.

<sup>27</sup> The review includes a section on procurement as well as costs of the sponsor; however, the State agency did not identify that the sponsor should have used formal procurement procedures.

<sup>28</sup> We found the State agency is required to complete approximately 120 State administrative reviews each year.

The State agency could mitigate issues noted by ensuring that the State agency properly analyzes financial information provided by the sponsors, expands its administrative reviews to include additional sites when there are known issues or new issues identified, documents the basis for review conclusions, and ensures that corrective actions are applied at all sites of the sponsor, as necessary.

## **Recommendation 1**

Direct the State agency to strengthen and enforce State administrative review guidance. This could include: (1) suggest as a best practice, expanding the scope of reviews to include additional sites when issues are noted, (2) ensuring the use of proper procurement procedures, and (3) ensuring claim reimbursement levels are consistent with the type of sponsor/site.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will work with the State agency to strengthen and enforce their administrative review guidance. The New York State Education Department (NYSED) has responded and identified the following actions for strengthening and enforcing their administrative reviews:

- NYSED will establish criteria to identify high-level meal service violations and will include these criteria, along with the extent and process for an expanded review, in the review protocol and training for NYSED staff.
- NYSED will incorporate additional questions in the Site Review form and develop corresponding guidance for the review protocol for NYSED staff to evaluate the method of service and Food Service Management Company (FSMC) contracts.
- NYSED will work with FNS to accurately identify sponsors that prepare and vend meals. Based on this technical assistance, NYSED will develop and provide additional training and guidance to staff and sponsors and incorporate the appropriate review of systems into monitoring.

The estimated completion date for this action is June 30, 2019.

## **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 2**

Request the State agency to develop and implement procedures to document support for the basis of the review conclusions/decisions made by the State agency in administrative reviews.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS has directed the State agency to develop and implement procedures to document support for the basis of the review conclusions/decisions made by the State agency during administrative reviews. NYSED will document support for findings and identify the accompanying protocol that documents the basis of review conclusions/decisions by review staff. In addition, the administrative review form will be amended to include what documents were reviewed as part of the administrative review. NYSED has purchased portable scanners to preserve documents that support NYSED review conclusions as needed for potential litigation.

The estimated completion date for this action is June 30, 2019.

## **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 3**

Direct the State agency to strengthen procedures to ensure corrective actions adequately address the sponsors' noncompliance, to include assurance that corrective actions are effective at all sites.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will provide technical assistance to the State agency to strengthen procedures to ensure corrective actions adequately address the sponsors' noncompliance. NYSED responded that it will incorporate 'how, what, who, when' in the required corrective actions from sponsors, and include additional sponsor attestation in the annual renewal for participation in the Program. Refer also to NYSED's actions planned for Recommendation 1 for high-level meal service violations. NYSED will take a statistical sample of the sponsors with low level violations to conduct additional reviews to assure effective corrective action has been taken.

The estimated completion date for this action is April 30, 2019.

## **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 4**

Direct the State agency to provide State administrative review staff with guidance and training on reviewing sponsors' SFSP fiscal and administrative requirements as well as other cost requirements for allowable costs.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

Utilizing audit work papers recently provided by OIG, FNS will work with NYSED to review current protocol and trainings on reviewing sponsors' fiscal and administrative requirements. If current protocol is found to be out of compliance with requirements outlined in 2 CFR 200, FNS Instruction 796-4, or any other regulations or guidance, NYSED will revise the protocol and training to ensure that all requirements are met during the review.

The estimated completion date for this action is June 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 5**

Direct the State agency to work with FNS to confirm the OIG-identified questionable costs (\$18,394) and to recover any disallowed costs from the SFSP sponsors.

### **Agency Response**

In its September 6, 2018 response, FNS stated:

FNS will work with the State agency to follow-up on OIG-identified questionable costs for which OIG provides documentation clearly identifying the costs in question. If unallowable costs are confirmed, NYSED will follow-up accordingly to include appeal rights provided to the SFSP sponsor and attempt to recover unallowable costs from the SFSP sponsor.

The estimated completion date for this action is June 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 6**

Direct the State agency to confirm the OIG-identified unsupported costs (\$48,157) and to recover any disallowed costs from the SFSP sponsors.

### **Agency Response**

In its September 6, 2018 response, FNS stated:

FNS has directed the State agency to follow-up and review the OIG-identified unsupported costs. NYSED will request and evaluate documentation from the sponsors to determine if costs are supported by the documentation. If costs are determined to be unsupported, NYSED will require sponsors to replenish any unsupported cost to their nonprofit food service account.

The estimated completion date for this action is April 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 7**

Direct the State agency to confirm the OIG-identified questionable reimbursements (\$630) and to recover any disallowed reimbursements from the SFSP sponsors.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS does not concur that meals should be disallowed and funds recovered from the sponsors given that the root cause of the issue occurred at the State agency. FNS has been in contact with NYSED regarding the OIG-identified questionable reimbursements. This occurred because the meal caps were set too low by the State agency due to the method used to determine the meal cap (refer to recommendation 11 in which OIG recommends that a more accurate estimate is needed to determine meal caps). FNS will direct NYSED to ensure they follow the accurate method to establish vended meal caps in accordance with FNS guidance. NYSED staff will be trained on this new method and updated guidance will be posted on NYSED's SFSP website.

The estimated completion date for this action is April 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 8**

Direct the State agency to confirm the OIG-identified questionable meal reimbursements (\$2,911) and recover any disallowed reimbursements from the SFSP sponsors.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS has directed the State agency to follow-up on the OIG-identified questionable meal reimbursements. Utilizing OIG documentation which identifies the sponsor, site, and meal type identified as having questionable meal reimbursements, NYSED will evaluate the sponsor's daily and consolidated meal counts and will recover the funds for any disallowed reimbursements.

The estimated completion date for this action is April 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 9**

Direct the State agency to work with FNS to take action to correct Sponsor E's status and to recover any disallowed reimbursements (totaling \$26,037) from the SFSP sponsor.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will work with the State agency to clarify SFSP Sponsor E's self-preparation meal status. FNS guidance allows self-preparation sponsors to use pre-packaged convenience food items purchased in bulk to be assembled with other food items, by sponsor or site staff, into a reimbursable meal. FNS will direct NYSED to develop and provide additional training and guidance to sponsor, as well as NYSED staff, and incorporate the appropriate review of systems into their monitoring. If reimbursements received by the sponsor are confirmed to be unallowable, NYSED will begin recovery from the SFSP sponsor, including notification of appeal rights.

The estimated completion date for this action is June 30, 2019.

## **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 10**

Direct the State agency to review Sponsor E's use of informal procurement procedures and implement corrective actions to ensure the sponsor operates in accordance with required procurement procedures.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS has directed the State agency to review Sponsor E's use of informal procurement procedures and implement corrective actions. NYSED instructed the sponsor to conduct a formal bid for the FSMC prepared and delivered lunch meal prior to the 2018 SFSP. NYSED attended the sponsors bid opening on May 31, 2018, to ensure the sponsor operates in accordance with the required procurement procedures.

FNS stated the action was completed as of May 31, 2018.

## **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 11**

Direct the State agency to ensure compliance with program regulations to disallow meals served to children at any vended sites in excess of their approved daily site caps and develop a method to better estimate an acceptable approved daily site cap.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS concurs with OIG that the State agency should adjust the method used for estimating sites' meal caps and ensure that meals served in excess of approved daily site caps are disallowed. NYSED identified that the method being used to set site caps was inadvertently setting meal caps too low. NYSED will adjust their method for determining site meal caps to ensure that they are appropriate for each site. NYSED will also provide additional guidance to State agency staff and SFSP sponsors to ensure that sites are not serving above their approved site cap.

The estimated completion date for this action is April 30, 2019.

**OIG Position**

We accept FNS' management decision for this recommendation.

## Section 2: SFSP Sponsor Controls

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### Finding 2: Sponsor Oversight Needs Improvement

We found 4 of 5 SFSP sponsors we reviewed did not consistently operate 6 of the 10 meal sites in accordance with SFSP regulations and requirements.<sup>29</sup> In addition, we counted 69 meal overclaims that SFSP sponsors claimed as reimbursable. This occurred because sponsors did not ensure site staff were adequately trained on program requirements. Additionally, three sponsors did not adequately monitor site operations to ensure sites operated in accordance with program requirements. As a result, sponsors claimed and were reimbursed \$260 for meals that were over-claimed. Consequently, there is reduced assurance that sponsors' sites serve and count SFSP meals in accordance with program requirements, thus jeopardizing the program's integrity.

Sponsors are required to maintain a reasonable level of site monitoring throughout program operations to ensure compliance with program requirements.<sup>30</sup> For SFSP meals to be reimbursable, sponsors must ensure sites only count eligible SFSP meals served to children in accordance with program requirements. These reimbursement requirements include regulatory provisions as well as FNS instructions. Additionally, FNS guidance outlines specific procedures to help ensure sponsors comply with reimbursement requirements.<sup>31</sup>

We observed meal services at two sites for each of the five sponsors we reviewed during SFSP operations. In total, we identified 15 instances of program noncompliance by 4 sponsors during our site visits. We identified the issues we found by category and sponsor (See Exhibit D). These noncompliances included items such as incorrect site profile information,<sup>32</sup> improper meal counts, incomplete delivery receipts, and food safety concerns.<sup>33</sup> We concluded that this occurred because sponsors did not ensure site staff were adequately trained and site operations were monitored in accordance with program requirements.

#### *Improper Meal Counts*

We observed at 3 of the 10 sites that site officials overclaimed 47 meals totaling nearly \$176.<sup>34</sup> Federal regulations require that sponsors must maintain accurate records to

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<sup>29</sup> The State agency had 2,946 SFSP meal service sites in 2016. We judgmentally selected 2 sites for each of the 5 sponsors reviewed, for a total of 10 sites. The sites were judgmentally selected based on the total amount of 2016 meal reimbursements.

<sup>30</sup> 7 C.F.R. § 225.15 (d).

<sup>31</sup> FNS Sponsor Monitor's Guide, *Summer Food Service Program* (2016).

<sup>32</sup> Sponsors submit site profile information into CNMS: The information establishes their approved meal service times.

<sup>33</sup> We issued an Interim Report (*New York's Controls Over Summer Food Service Program—Interim Report* (Audit 27004-0001-23(1), Nov. 2017) concerning a food safety violation we identified. The site for Sponsor A did not have sufficient food storage equipment to maintain adequate temperatures for milk.

<sup>34</sup> Two sites claimed a total of 26 second meals served during meal service for the day of our site visits, but we observed no second meals were served during the entire meal time periods. We did not include the second meals in the improper meals calculation because we only observed one day at the site. Second meals are calculated on a monthly basis and limited to a 2 percent cap of total first meals. As a result, there was a lack of documentation to support those meals were actually served to children and properly reimbursed by the State agency.

justify all costs and meals claimed.<sup>35</sup> Failure to maintain accurate records may be grounds for denial of reimbursement for meals claimed. However, we found that two of Sponsor A's sites claimed meals greater than the amount we observed during our visit. On the day of our visit, we observed 35 meals served during the meal service time, but the site claimed a total of 79 meals served.<sup>36</sup> We found Sponsor A did not adequately monitor site operations due to a change of sponsor management officials in 2016 and did not complete the required site monitoring of operations in the timeframes as required. In addition, Sponsor A could not provide documentation during our review that site staff received training in 2016 at 10 of the 16 sites.<sup>37</sup>

#### *Sponsors Lacked a Meal Count Method*

We found that officials at two sites (one Sponsor B and another Sponsor D) did not implement a meal count tracking method to accurately identify the number of SFSP meals served. This occurred because sponsor officials did not ensure site officials received appropriate training on the meal count tracking method to document the number of meals served. The site officials for both sponsors stated they subtracted the number of meals remaining at the end of meal service from the number of meals delivered each day to determine the number of meals served. However, this practice does not adhere to FNS guidance that requires accurate daily records at the site level to document program performance and ensure each sponsor's reimbursement. The guidance also instructs sponsors to familiarize themselves with the forms to be used and to assist site supervisors when filling them out.<sup>38</sup> The lack of meal count tracking could potentially result in questionable reimbursements for the sponsors who submit inaccurate meal claims to the State agency.

#### *Meals Not Consumed On Site*

We observed 22 children at 2 sponsors'<sup>39</sup> sites did not consume the SFSP meal on site as required by Federal regulations because the sponsors did not adequately monitor the sites to ensure program responsibilities were carried out.<sup>40</sup> For example, at one Sponsor D site, we observed 19 children pick up one meal per child and leave the meal service site without consuming the meal. The site was located in a park and had multiple access points to the meal serving location. Site representatives stated that it is difficult to monitor all the children due to the size and location of the site. As a result, the sites had no assurance that eligible children consumed the meal or that the safety and quality of the meal was maintained. The 2 sites improperly claimed 22 meals, valued at \$84 more than they should have been reimbursed.

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<sup>35</sup> 7 C.F.R. § 225.15 (c) (1).

<sup>36</sup> At an additional site of Sponsor A, we found three meals were incorrectly claimed. Therefore, site officials incorrectly overclaimed a total of 47 meals between 2 sites of Sponsor A.

<sup>37</sup> Sponsor A was unable to provide any documentation that training was provided to any of its sites in 2014 or 2015.

<sup>38</sup> FNS Sponsor Monitor's Guide, *Summer Food Service Program* (2016).

<sup>39</sup> The sponsors' did not request a waiver to allow for offsite meal consumption.

<sup>40</sup> 7 C.F.R. § 225.6 (e) (15).

### *Inadequate Serving Space*

We found a Sponsor A site profile indicated meal service could be provided to 86 children. However, we observed the site maintained only enough space to allow seating for 5 children during inclement weather. We found the site had one table and no additional seating space was available for use if conditions prevented children from eating outdoors. Federal regulations require that arrangements are made for food service to be provided during periods of inclement weather.<sup>41</sup>

Overall, we concluded sponsors did not maintain effective oversight at their meal service sites. Based on the 15 noncompliances<sup>42</sup> observed during our site visits, the lack of sponsor oversight increases the risk for the improper use of SFSP funds. The State agency and the identified sponsors agreed with the noncompliances identified and indicated that they will implement corrective actions. In addition, the agency stated it would perform followup reviews during each of the sponsor's next State administrative reviews.

## **Recommendation 12**

Direct the State agency to ensure identified sponsors provide sufficient SFSP training to site staff of program requirements outlined in 7 CFR 225.15(d)(1). Training should address site staff responsibilities to (1) ensure that meal counts are accurate and that separate meal counts are maintained for all meal types served, (2) establish controls to prevent children from leaving the sites with provided meals, and (3) properly document delivery times and food temperatures on delivery receipts.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will direct NYSED to ensure the identified sponsors provide sufficient SFSP training to their site staff of program requirements outlined in 7 CFR 225.15(d)(1).

The estimated completion date for this action is April 30, 2019.

## **OIG Position**

We accept FNS' management decision for this recommendation.

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<sup>41</sup> 7 C.F.R. § 225.6 (c)(2)(D).

<sup>42</sup> See remaining noncompliances (incomplete delivery receipts and meals served outside of approved meal service times) not described in the body of this report, in Exhibit D.

## **Recommendation 13**

Direct the State agency to ensure identified sponsors provide sufficient SFSP training to sponsor staff responsible for reviewing site operations related to the monitors' duties and responsibilities as outlined in 7 CFR 225.15(d)(1). This should include ensuring that adequate space is available to accommodate the estimated number of children identified in the site profiles.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will direct NYSED to ensure the identified sponsors are in compliance with the training requirements in 7 CFR 225.15(d)(1). NYSED does provide SFSP training to sponsor staff on their responsibilities and duties for reviewing site operations. Sponsors are required to conduct pre-operational site visits to determine that sites have adequate facilities to provide meal service for the anticipated number of children in attendance and the capability to conduct the proposed meal service. In addition, State agencies must conduct pre-approval visits of sponsors and sites as specified in 7 CFR 225.7(d)(1).

The estimated completion date for this action is April 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## **Recommendation 14**

Direct the State agency to monitor and assess the completion and quality of the training provided by the identified sponsors as described in Recommendations 12 and 13.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will direct NYSED to ensure the identified sponsors are in compliance with the training requirements in 7 CFR 225.15(d)(1). Regarding the completion of training, the regulations in 7 CFR 225.7(a) require that prior to Program operations, the State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. FNS will also direct NYSED to ensure the identified sponsors are in compliance with this regulation.

The estimated completion date for this action is April 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

### **Recommendation 15**

Direct the State agency to recover SFSP funds in the amount of \$260 for questionable reimbursements for overclaimed meals.<sup>43</sup>

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS will work with the State agency to review OIG-identified questionable reimbursements for overclaimed meals. Utilizing audit work papers recently provided by OIG regarding specifically which sponsor, site, and meal type were identified as having improper meal counts and/or meals consumed off site, NYSED will review sponsor documentation and begin recovery from the SFSP sponsor, including notification of appeal rights, if overclaims are confirmed.

The estimated completion date for this action is June 30, 2019.

### **OIG Position**

We accept FNS' management decision for this recommendation.

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<sup>43</sup> Improper meal counts (\$176) and meals not consumed on site (\$84).

### **Finding 3: Sponsor Did not Comply with Outreach Requirements**

One of the five SFSP sponsors reviewed did not include the required USDA nondiscrimination policy in its 2016 media release. This occurred because the sponsor created its own media release for SFSP instead of using the State agency-provided release. We also found this sponsor did not collect or maintain ethnic and racial data on children receiving meals during its 2014–2016 site monitoring visits because it did not have an effective process to collect racial and ethnic data. As a result, the public may not be aware of their rights to access SFSP without discrimination, which increases the risk that the program may not reach all potential eligible children. In addition, the State agency did not have complete data to document the beneficiaries of Federally-assisted programs, which would impede the agency’s ability to identify areas where additional outreach may be needed.

Promoting meal sites in the community is an important aspect of SFSP to ensure no child goes hungry in the summer months. As part of this, sponsors and their sites must comply with program outreach requirements to increase participation and ensure children from low-income areas and/or low-income households have equal access to SFSP meal services and receive nutritious meals when school is not in session. Federal regulations require sponsors to issue a media release each year to announce the availability of free meals in the area served by the sponsor.<sup>44</sup> FNS guidance states all publicly-released documents must include a nondiscrimination statement that no person shall, on the grounds of “race, color, national origin, sex, age, or disability,” be excluded from participation in or be denied the benefits from USDA programs.<sup>45</sup> Additionally, Federal regulations require sponsors to collect and have available the racial and ethnic data showing the extent to which members of minority groups are beneficiaries of Federally-assisted programs.<sup>46</sup> FNS guidance further states that all sponsors must collect beneficiary data each year by racial and ethnic category for each site under the sponsor’s jurisdiction. Both FNS and sponsors must ensure no child is excluded from participation in SFSP on the basis of race, color, national origin, sex, age, or disability. In an effort to monitor the effectiveness of the USDA nondiscrimination efforts, it is the responsibility of the State agency to collect and maintain racial and ethnic data on SFSP participation.

We found that one sponsor created its own SFSP media release without including the USDA nondiscrimination statement required in the 2016 media release used for publication. Specifically, the media release did not state that participation in the program is not restricted by race, color, national origin, sex, age, or disability of the children. A State agency official said its official media release contains all required information, including the nondiscrimination statement, and is available to sponsors during the online application renewal process. Once a sponsor submits the renewal application for participation, a media release is automatically generated by the system and available for sponsors on the renewal screen to print and submit to their local media outlets. There was a change in sponsor management; therefore, the new sponsor management could not explain why the prior management created a media release instead of using the State-provided release. As a result of the sponsor not including the

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<sup>44</sup> 7 C.F.R. § 225.15 (e).

<sup>45</sup> FNS Instruction 113-1, *Civil Rights Compliance and Enforcement–Nutrition Programs and Activities* (Nov. 8, 2005).

<sup>46</sup> 7 C.F.R. § 225.7 (g).

nondiscrimination policy in its own media release, the public may not be aware of their rights to participate in SFSP; this increases the risk that the program does not reach all potential eligible children.

We also found that the sponsor did not collect ethnic and racial data for 12 of 15 SFSP sites on its 2016 monitoring reports.<sup>47</sup> Additionally, the sponsor was unable to provide monitoring reports for 2014 and 2015. Onsite monitoring ensures that sites operate according to program rules and maintain adequate records. A State agency official said that sponsors are required to collect and maintain the ethnic and racial data for participating children. The State agency included this data collection as part of the 4-week site monitoring reviews conducted by sponsors.<sup>48</sup> The sponsor official stated that she thought the school district information collected from the National School Lunch Program was sufficient for this requirement and did not collect information during the 2016 SFSP site reviews. However, FNS guidance requires the sponsor to collect and report the racial and ethnic category data of the SFSP participants at each sponsor site during their onsite monitoring reviews.

When we brought this to the attention of the State agency, the officials stated that an administrative review would be performed at the sponsor site in 2018 to ensure that ethnic and racial information has been collected. The State agency officials added that if the sponsor did not collect the ethnic and racial data, they would cite the sponsor and provide additional technical assistance regarding where to find the information for completion in the future.

Overall, collecting racial and ethnic data from participating SFSP sponsors is important to ensure that sponsors are reaching all potentially eligible children and to identify areas where additional outreach is needed. Likewise, the State agency needs to notify sponsors to use the agency's media release. Additionally, the State agency should provide additional technical assistance to the sponsor on the collection of racial and ethnic data during the site monitoring reviews.

## **Recommendation 16**

Direct the State agency to notify Sponsor A that a State agency system-generated media release is available for use that includes the required USDA nondiscrimination policy.

## **Agency Response**

In its September 6, 2018, response, FNS stated:

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<sup>47</sup> In addition, we found the remaining three sponsor sites were not accurately reporting outreach data. For example, we found the site monitor noted 15 children received meals at a site, but the ethnic and racial categories indicated only 2 children for each category. For each child, the site monitor is required to record the ethnicity category and racial designation.

<sup>48</sup> The sponsor is required to monitor sites within the first 4 weeks of SFSP operation. The 4 Week Site Review form requires the sponsor to collect racial and ethnic data.

FNS has directed the State agency to notify the SFSP sponsor of the availability of a State agency generated media release. NYSED directed the sponsor to use the system generated media release that includes the USDA nondiscrimination policy. The sponsor provided documentation that the system generated media release has been used.

FNS stated the action was completed as of July 30, 2018.

### **OIG Position**

We accept FNS' management decision for this recommendation.

### **Recommendation 17**

Direct the State agency to provide technical assistance to the sponsor on the collection of racial and ethnic data in site monitoring reviews.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS has directed the State agency to provide technical assistance to the sponsor. NYSED has provided the sponsor with technical assistance on collecting racial and ethnic data during the sponsor's on-site monitoring review. The sponsor provided documentation to support that racial and ethnic data has been collected on the Four Week Self-Monitoring Reviews.

FNS stated the action was completed as of July 30, 2018.

### **OIG Position**

We accept FNS' management decision for this recommendation.

### **Recommendation 18**

Direct the State agency to monitor the identified sponsor to ensure that required racial and ethnic data is collected.

### **Agency Response**

In its September 6, 2018, response, FNS stated:

FNS has directed the State agency to monitor the identified sponsor to ensure that required racial and ethnic data is collected. The sponsor provided documentation to

support that racial and ethnic data has been collected on the Four Week Self-Monitoring Reviews.

FNS stated the action was completed as of July 30, 2018.

### **OIG Position**

We accept FNS' management decision for this recommendation.

## Scope and Methodology

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We conducted an audit of New York State’s administration of the SFSP.<sup>49</sup> The scope of our audit work covered program activities from fiscal years 2014 through 2016 and site observations from June through August 2017. We began fieldwork at the State agency office in Albany, New York, in May 2017, and conducted fieldwork at 5 non-statistically selected sponsors<sup>50</sup> and 25 non-statistically selected sites: 10 complete, announced site visit reviews and 15 confirmation site visits.<sup>51</sup>

We non-statistically selected 5 of 348 sponsors based on SFSP reimbursement amounts, sponsor types, site types, site locations, and food service operations. We randomly selected one sponsor from each of the following categories:

- Sponsor A: One sponsor that was a school food authority;
- Sponsor B: One non-profit sponsor that had rural, open sites;
- Sponsor C: One non-profit sponsor that had urban, open sites;
- Sponsor D: One non-profit sponsor that had vended, open sites; and,
- Sponsor E: One non-profit sponsor that had self-prep, open sites.

We also non-statistically selected two sites for each sponsor based on the SFSP reimbursement amounts and corresponding site location and food service characteristics, if possible. For example, for Sponsor C, we selected two urban sites that had the highest SFSP reimbursements in 2016. Sponsor B had only one “rural” open site; therefore, we selected an alternative site with the highest reimbursement that was an “urban” site.

For each selected sponsor, we conducted additional site confirmation visits based on sites that the State agency’s CNMS indicated were operational at the time of our fieldwork and within the time/distance parameters of our selected sites, which was approximately a 10-mile or 10-minute travel radius. Confirmation site visits occurred during SFSP meal service times, indicated by the site profile in CNMS. In total, we conducted 15 confirmation site visits for the 5 sponsors selected for review (3 per sponsor).

To accomplish our objectives, we:

- Reviewed applicable laws, regulations, and Federal and State policies and procedures applicable to SFSP.
- Developed three checklists that included specific procedures to assess State administration and sponsor and site compliance with program guidelines.

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<sup>49</sup> The agency responsible for the administration of SFSP in New York is the New York State Education Department.

<sup>50</sup> For a list of selected sponsor locations, see Exhibit B.

<sup>51</sup> “Complete, announced site visit reviews” means site visits where auditors observed the complete meal service of the site and where sponsors were notified in advance of our visits. “Confirmation site visit” means site visits where auditors conducted limited, unannounced site visits to confirm if the sites were operational and did not remain for the complete meal service period.

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- Interviewed the State agency officials regarding their administration of SFSP and oversight of sponsors and sites.
- Reviewed and assessed State records and supporting documentation such as sponsor/site SFSP applications and State SFSP administrative reviews for selected sponsors.
- Interviewed selected sponsors' staff regarding their administration and oversight of SFSP.
- Visited a sponsor central kitchen and observed SFSP meal preparations.
- Conducted site visits and observed site SFSP meal services.
- Interviewed selected sites' staff regarding their administration of SFSP meal services.
- Reviewed and assessed selected sponsors' records and supporting documentation such as financial statements, receipts, and meal count sheets to evaluate the permissibility of sponsor costs, accuracy of claims submitted, and sponsor and site compliance with SFSP regulations and requirements.

During the course of our audit, we did not solely rely on information from any agency information systems. We conducted limited verification of information generated by the State agency computer system and make no representation regarding the adequacy of this system or the information generated from it because evaluating the effectiveness of the information system (or information technology controls) was not one of the audit objectives.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Abbreviations

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CNMS .....	Child Nutrition Management System
FNS .....	Food and Nutrition Service
FY .....	fiscal year
NSLA .....	Richard B. Russell National School Lunch Act
OIG .....	Office of Inspector General
SFSP.....	Summer Food Service Program
USDA.....	United States Department of Agriculture

## Exhibit A: Summary of Monetary Results

This exhibit summarizes the monetary results for this audit report by finding and recommendation number.

Finding	Recommendation	Description	Amount	Category
1	5	Questionable SFSP costs	\$18,394 <sup>52</sup>	Questioned Costs, Recovery Recommended
1	6	Unsupported SFSP costs	\$48,157 <sup>53</sup>	Unsupported Costs, Recovery Recommended
1	7	Questionable SFSP reimbursements	\$630	Questioned Costs, Recovery Recommended
1	8	Questionable SFSP reimbursements	\$2,911	Questioned Costs, Recovery Recommended
1	9	Questionable SFSP reimbursements based on inaccurate meal reimbursement rates used	\$26,037	Questioned Costs, Recovery Recommended
2	15	Questionable SFSP reimbursements based on meal overclaims	\$260	Questioned Costs, Recovery Recommended
<b>Total</b>			<b>\$96,389</b>	

<sup>52</sup> Includes Sponsor B (\$758), Sponsor C (\$1,554), and Sponsor D (\$16,082).

<sup>53</sup> Includes Sponsor C (\$10,460), and Sponsor E (\$37,697).

## Exhibit B: State Agency Sponsor Visits

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This exhibit identifies the Sponsors by category selected for review

Sponsor/Sites	Category	Location
Sponsor A	School Food Authority	
Site A1		
Site A2		
Site A3		
Site A4		
Site A5		
Sponsor B	Rural	
Site B1		
Site B2		
Site B3		
Site B4		
Site B5		
Sponsor C	Urban	
Site C1		
Site C2		
Site C3		
Site C4		
Site C5		
Sponsor D	Vended	
Site D1		
Site D2		
Site D3		
Site D4		
Site D5		
Sponsor E	Self-Prep	
Site E1		
Site E2		
Site E3		
Site E4		
Site E5		

## Exhibit C: Sponsor Noncompliance Issues

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The exhibit summarizes the sponsor noncompliance issues we identified.

<b>Issue</b>	<i>Sponsor A</i>	<i>Sponsor B</i>	<i>Sponsor C</i>	<i>Sponsor D</i>	<i>Sponsor E</i>
Unsupported/Questionable Costs		X	X	X	X
Unsupported/Questionable Reimbursements	X	X	X	X	X
Questionable Reimbursements - Inaccurate Meal Reimbursement Rates					X
No Formal Contracts used with Vendors					X

## Exhibit D: Site Noncompliance Issues

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The exhibit summarizes the noncompliance issues we observed during our site visits.

Noncompliance Issue	Sponsor A	Sponsor B	Sponsor C	Sponsor D	Sponsor E	Total
Improper Meal Counts	2	1				3
Lack of Meal Count System		1		1		2
Meals Consumed Offsite	1			1		2
Food Safety Concerns*	1					1
Inadequate Serving Space	1					1
Incomplete Delivery Receipts <sup>54</sup>	2		2			4
Meals Served Outside of Approved Meal Service Times	2					2
<b>Total</b>	<b>9</b>	<b>2</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>15</b>
* This noncompliance issue was reported in Audit Report 27004-0001-23(1), <i>New York's Controls Over Summer Food Service Program Interim Report</i> , Nov. 2017.						

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<sup>54</sup> Two sites received meal delivery tickets, but the time of delivery was not documented. The other two sites did not receive meal delivery tickets.

**AGENCY'S  
RESPONSE TO AUDIT REPORT**





**United States  
Department of  
Agriculture**

Food and  
Nutrition  
Service

3101 Park  
Center Drive

Alexandria, VA  
22302-1500

DATE: September 6, 2018

AUDIT  
NUMBER: 27004-0001-23

TO: Gil H. Harden  
Assistant Inspector General for Audit

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

SUBJECT: New York's Controls over Summer Food Service Program

This letter responds to the official draft report for audit number 27004-0001-23, New York's Controls over Summer Food Service Program (SFSP). Specifically, the Department of Agriculture's Food and Nutrition Service (FNS) is responding to the 18 recommendations in the report.

FNS acknowledges the importance of State agency controls in order to maintain public trust in the program and to ensure that the full value of program resources are used to serve healthy meals to children.

**OIG Recommendation 1:**

Direct the State agency to strengthen and enforce State administrative review guidance. This could include: (1) suggest as a best practice, expanding the scope of reviews to include additional sites when issues are noted, (2) ensuring the use of proper procurement procedures, and (3) ensuring claim reimbursement levels are consistent with the type of sponsor/site.

**FNS Response:**

FNS will work with the State agency to strengthen and enforce their administrative review guidance. The New York State Education Department (NYSED) has responded and identified the following actions for strengthening and enforcing their administrative reviews:

- NYSED will establish criteria to identify high-level meal service violations and will include these criteria, along with the extent and process for an expanded review, in the review protocol and training for NYSED staff.

- NYSED will incorporate additional questions in the Site Review form and develop corresponding guidance for the review protocol for NYSED staff to evaluate the method of service and Food Service Management Company (FSMC) contracts.
- NYSED will work with FNS to accurately identify sponsors that prepare and vend meals. Based on this technical assistance, NYSED will develop and provide additional training and guidance to staff and sponsors and incorporate the appropriate review of systems into monitoring.

**Estimated Completion Date:**

June 30, 2019

**OIG Recommendation 2:**

Request the State agency to develop and implement procedures to document support for the basis of the review conclusions/decisions made by the State agency in administrative reviews.

**FNS Response:**

FNS has directed the State agency to develop and implement procedures to document support for the basis of the review conclusions/decisions made by the State agency during administrative reviews. NYSED will document support for findings and identify the accompanying protocol that documents the basis of review conclusions/decisions by review staff. In addition, the administrative review form will be amended to include what documents were reviewed as part of the administrative review. NYSED has purchased portable scanners to preserve documents that support NYSED review conclusions as needed for potential litigation.

**Estimated Completion Date:**

June 30, 2019

**OIG Recommendation 3:**

Direct the State agency to strengthen procedures to ensure corrective actions adequately address the sponsors' noncompliance, to include assurance that corrective actions are effective at all sites.

**FNS Response:**

FNS will provide technical assistance to the State agency to strengthen procedures to ensure corrective actions adequately address the sponsors' noncompliance. NYSED responded that it will incorporate 'how, what, who, when' in the required corrective actions from sponsors, and include additional sponsor attestation in the annual renewal for participation in the Program. Refer also to NYSED's actions planned for Recommendation 1 for high-level meal service violations. NYSED will take a statistical sample of the sponsors with low level violations to conduct additional reviews to assure effective corrective action has been taken.

**Estimated Completion Date:**

April 30, 2019

**OIG Recommendation 4:**

Direct the State agency to provide State administrative review staff with guidance and training on reviewing sponsors' SFSP fiscal and administrative requirements as well as other cost requirements for allowable costs.

**FNS Response:**

Utilizing audit work papers recently provided by OIG, FNS will work with NYSED to review current protocol and trainings on reviewing sponsors' fiscal and administrative requirements. If current protocol is found to be out of compliance with requirements outlined in 2 CFR 200, FNS Instruction 796-4, or any other regulations or guidance, NYSED will revise the protocol and training to ensure that all requirements are met during the review.

**Estimated Completion Date:**

June 30, 2019

**OIG Recommendation 5:**

Direct the State agency to work with FNS to confirm the OIG-identified questionable costs (\$18,394) and to recover any disallowed costs from the SFSP sponsors.

**FNS Response:**

FNS will work with the State agency to follow-up on OIG-identified questionable costs for which OIG provides documentation clearly identifying the costs in question. If

unallowable costs are confirmed, NYSED will follow-up accordingly to include appeal rights provided to the SFSP sponsor and attempt to recover unallowable costs from the SFSP sponsor.

**Estimated Completion Date:**

June 30, 2019

**OIG Recommendation 6:**

Direct the State agency to confirm the OIG-identified unsupported costs (\$48,157) and to recover any disallowed costs from the SFSP sponsors.

**FNS Response:**

FNS has directed the State agency to follow-up and review the OIG-identified unsupported costs. NYSED will request and evaluate documentation from the sponsors to determine if costs are supported by the documentation. If costs are determined to be unsupported, NYSED will require sponsors to replenish any unsupported cost to their nonprofit food service account.

**Estimated Completion Date:**

April 30, 2019

**OIG Recommendation 7:**

Direct the State agency to confirm the OIG-identified questionable reimbursements (\$630) and to recover any disallowed reimbursements from the SFSP sponsors.

**FNS Response:**

FNS does not concur that meals should be disallowed and funds recovered from the sponsors given that the root cause of the issue occurred at the State agency. FNS has been in contact with NYSED regarding the OIG-identified questionable reimbursements. This occurred because the meal caps were set too low by the State agency due to the method used to determine the meal cap (refer to recommendation 11 in which OIG recommends that a more accurate estimate is needed to determine meal caps). FNS will direct NYSED to ensure they follow the accurate method to establish vended meal caps in accordance with FNS guidance. NYSED staff will be trained on this new method and updated guidance will be posted on NYSED's SFSP website.

**Estimated Completion Date:**

April 30, 2019

**OIG Recommendation 8:**

Direct the State agency to confirm the OIG-identified questionable meal reimbursements (\$2,911) and recover any disallowed reimbursements from the SFSP sponsors.

**FNS Response:**

FNS has directed the State agency to follow-up on the OIG-identified questionable meal reimbursements. Utilizing OIG documentation which identifies the sponsor, site, and meal type identified as having questionable meal reimbursements, NYSED will evaluate the sponsor's daily and consolidated meal counts and will recover the funds for any disallowed reimbursements.

**Estimated Completion Date:**

April 30, 2019

**OIG Recommendation 9:**

Direct the State agency to work with FNS to take action to correct Sponsor E's status and to recover any disallowed reimbursements (totaling \$26,037) from the SFSP sponsor.

**FNS Response:**

FNS will work with the State agency to clarify SFSP Sponsor E's self-preparation meal status. FNS guidance allows self-preparation sponsors to use pre-packaged convenience food items purchased in bulk to be assembled with other food items, by sponsor or site staff, into a reimbursable meal. FNS will direct NYSED to develop and provide additional training and guidance to sponsor, as well as NYSED staff, and incorporate the appropriate review of systems into their monitoring. If reimbursements received by the sponsor are confirmed to be unallowable, NYSED will begin recovery from the SFSP sponsor, including notification of appeal rights.

**Estimated Completion Date:**

June 30, 2019

**OIG Recommendation 10:**

Direct the State agency to review Sponsor E's use of informal procurement procedures and implement corrective actions to ensure the sponsor operates in accordance with required procurement procedures.

**FNS Response:**

FNS has directed the State agency to review Sponsor E's use of informal procurement procedures and implement corrective actions. NYSED instructed the sponsor to conduct a formal bid for the FSMC prepared and delivered lunch meal prior to the 2018 SFSP. NYSED attended the sponsors bid opening on May 31, 2018 to ensure the sponsor operates in accordance with the required procurement procedures.

**Estimated Completion Date:**

Complete as of May 31, 2018

**OIG Recommendation 11:**

Direct the State agency to ensure compliance with program regulations to disallow meals served to children at any vended sites in excess of their approved daily site caps and develop a method to better estimate an acceptable approved daily site cap.

**FNS Response:**

FNS concurs with OIG that the State agency should adjust the method used for estimating sites' meal caps and ensure that meals served in excess of approved daily site caps are disallowed. NYSED identified that the method being used to set site caps was inadvertently setting meal caps too low. NYSED will adjust their method for determining site meal caps to ensure that they are appropriate for each site. NYSED will also provide additional guidance to State agency staff and SFSP sponsors to ensure that sites are not serving above their approved site cap.

**Estimated Completion Date:**

April 30, 2019

**OIG Recommendation 12:**

Direct the State agency to ensure identified sponsors provide sufficient SFSP training to site staff of program requirements outlined in 7 CFR 225.15(d)(1). Training should address site staff responsibilities to (1) ensure that meal counts are accurate and that

separate meal counts are maintained for all meal types served, (2) establish controls to prevent children from leaving the sites with provided meals, and (3) properly document delivery times and food temperatures on delivery receipts.

**FNS Response:**

FNS will direct NYSED to ensure the identified sponsors provide sufficient SFSP training to their site staff of program requirements outlined in 7 CFR 225.15(d)(1).

**Estimated Completion Date:**

April 30, 2019

**Recommendation 13:**

Direct the State agency to ensure identified sponsors provide sufficient SFSP training to sponsor staff responsible for reviewing site operations related to the monitors' duties and responsibilities as outlined in 7 CFR 225.15(d)(1). This should include ensuring that adequate space is available to accommodate the estimated number of children identified in the site profiles.

**FNS Response:**

FNS will direct NYSED to ensure the identified sponsors are in compliance with the training requirements in 7 CFR 225.15(d)(1). NYSED does provide SFSP training to sponsor staff on their responsibilities and duties for reviewing site operations. Sponsors are required to conduct pre-operational site visits to determine that sites have adequate facilities to provide meal service for the anticipated number of children in attendance and the capability to conduct the proposed meal service. In addition, State agencies must conduct pre-approval visits of sponsors and sites as specified in 7 CFR 225.7(d)(1).

**Estimated Completion Date:**

April 30, 2019

**Recommendation 14:**

Direct the State agency to monitor and assess the completion and quality of the training provided by the identified sponsors as described in Recommendations 12 and 13.

**FNS Response:**

FNS will direct NYSED to ensure the identified sponsors are in compliance with the training requirements in 7 CFR 225.15(d)(1). Regarding the completion of training, the regulations in 7 CFR 225.7(a) require that prior to Program operations, the State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. FNS will also direct NYSED to ensure the identified sponsors are in compliance with this regulation.

**Estimated Completion Date:**

April 30, 2019

**Recommendation 15:**

Direct the State agency to recover SFSP funds in the amount of \$260 for questionable reimbursements for overclaimed meals.

**FNS Response:**

FNS will work with the State agency to review OIG-identified questionable reimbursements for overclaimed meals. Utilizing audit work papers recently provided by OIG regarding specifically which sponsor, site, and meal type were identified as having improper meal counts and/or meals consumed off site, NYSED will review sponsor documentation and begin recovery from the SFSP sponsor, including notification of appeal rights, if overclaims are confirmed.

**Estimated Completion Date:**

June 30, 2019

**Recommendation 16:**

Direct the State agency to notify Sponsor A that a State agency system-generated media release is available for use that includes the required USDA nondiscrimination policy.

**FNS Response:**

FNS has directed the State agency to notify the SFSP sponsor of the availability of a State agency generated media release. NYSED directed the sponsor to use the system generated media release that includes the USDA nondiscrimination policy. The sponsor provided documentation that the system generated media release has been used.

**Estimated Completion Date:**

Complete as of July 30, 2018

**Recommendation 17:**

Direct the State agency to provide technical assistance to the sponsor on the collection of racial and ethnic data in site monitoring reviews.

**FNS Response:**

FNS has directed the State agency to provide technical assistance to the sponsor. NYSED has provided the sponsor with technical assistance on collecting racial and ethnic data during the sponsor's on-site monitoring review. The sponsor provided documentation to support that racial and ethnic data has been collected on the Four Week Self-Monitoring Reviews.

**Estimated Completion Date:**

Complete as of July 30, 2018

**Recommendation 18:**

Direct the State agency to monitor the identified sponsor to ensure that required racial and ethnic data is collected.

**FNS Response:**

FNS has directed the State agency to monitor the identified sponsor to ensure that required racial and ethnic data is collected. The sponsor provided documentation to support that racial and ethnic data has been collected on the Four Week Self-Monitoring Reviews.

**Estimated Completion Date:**

Complete as of July 30, 2018

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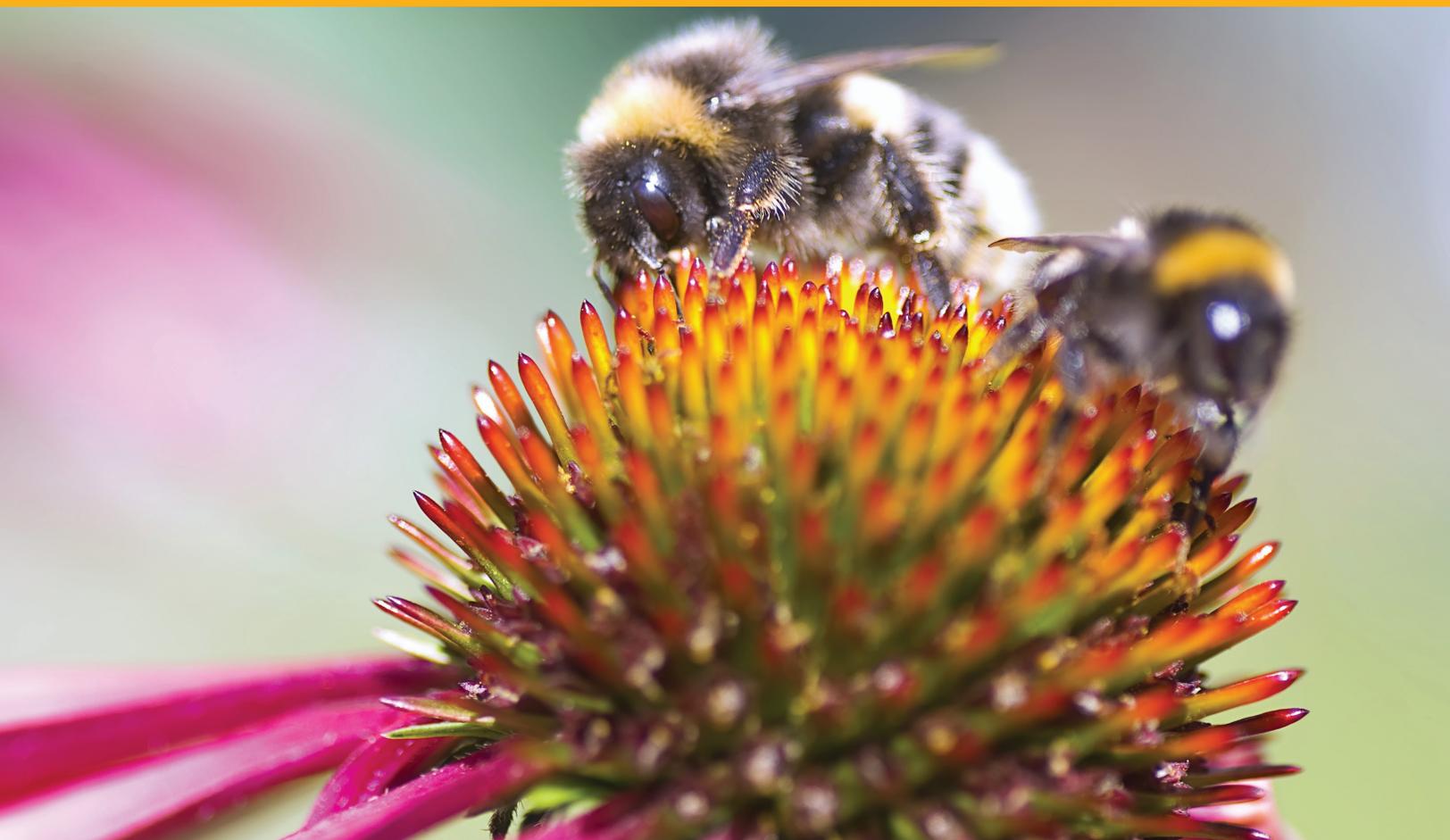
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