



United States Department of Agriculture

Food Distribution Program on Indian Reservations



Audit Report 27601-0001-21

February 2020

OFFICE OF INSPECTOR GENERAL

Food Distribution Program on Indian Reservations

Audit Report 27601-0001-21

OIG reviewed FNS' controls over FDPIR household eligibility and administrative costs, as well as its controls to prevent damaged, spoiled, and lost food.

OBJECTIVE

Our objective was to evaluate and test controls over household eligibility; administrative costs; and damaged, spoiled, and loss of food.

REVIEWED

We reviewed applicable laws and regulations and reviewed and assessed records and supporting documentation for fiscal years 2017 and 2018. We performed fieldwork from May 2018 through September 2019, which included visiting ITO offices, distribution centers, and warehouses, and interviewing agency officials and ITO staff.

RECOMMENDS

We recommend that SWRO review all current and future ITOs' Federal State agreements and plans of operation, develop and implement a documented process to ensure ITOs timely submit required FDPIR reports, obtain and evaluate all ITOs' completed annual operations reviews, ensure that the certification specialist for one reviewed ITO completes eligibility certification training, develop and implement additional guidance that illustrates eligibility determination methods, and conduct a management evaluation for one ITO.

WHAT OIG FOUND

The Food Distribution Program on Indian Reservations (FDPIR) provides U.S. Department of Agriculture (USDA) food to income-eligible households living on Indian reservations and American Indian households residing in approved areas near reservations. The Food and Nutrition Service (FNS) administers FDPIR at the Federal level; locally it is administered by either an Indian Tribal Organization (ITO) or a State agency.

Our audit determined that neither selected ITO fully complied with Federal regulations and FNS requirements. Specifically, we identified noncompliance in ITOs' program administration and eligibility determinations. This occurred, in part, because FNS Southwest Regional Office (SWRO) officials—who were responsible for ITO oversight—lacked specific documented procedures to escalate ITO noncompliance with certain Federal regulations and FNS requirements. For example, we identified that, for one ITO, not all required parties had signed and dated its Federal State Agreement and Plan of Operation. Furthermore, neither ITO timely submitted its required reports. We also found that although FNS requires ITOs to complete annual operations reviews, SWRO officials neither routinely obtain nor evaluate them. Lastly, one ITO's case files did not always contain reasonable documentation to adequately support FDPIR eligibility determinations.

While we did not identify any specific misuse of administrative funds or excessive claims for damaged, spoiled, or lost food during our audit, any instance of ITO noncompliance increases the risk that ineligible participants will receive program benefits; administrative funds will be misused; and claims for damaged, spoiled, or lost food will increase.

FNS officials concurred with our findings and recommendations, and we accepted management decision on all six recommendations.



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



DATE: February 4, 2020

AUDIT
NUMBER: 27601-0001-21

TO: Pamilyn Miller
Administrator
Food and Nutrition Service

ATTN: David Burr
Chief Financial Officer

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Food Distribution Program on Indian Reservations

This report presents the results of the subject review. Your written response to the official draft is included in its entirety at the end of the report. We have incorporated excerpts from your response, and the Office of Inspector General's (OIG) position, into the relevant sections of the report. Based on your written response, we are accepting management decision for all six audit recommendations in the report, and no further response to this office is necessary. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer (OCFO).

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report. For agencies other than OCFO, 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 to our website (<http://www.usda.gov/oig>) in the near future.

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Background and Objective

Background

The U.S. Department of Agriculture’s (USDA) Food Distribution Program on Indian Reservations (FDPIR) is authorized by the Food and Nutrition Act of 2008,¹ as amended,² and the Agriculture and Consumer Protection Act of 1973.³ FDPIR provides USDA food to income-eligible households living on Indian reservations and to American Indian households residing in approved areas near reservations or within the State of Oklahoma.⁴ Households participate in FDPIR as an alternative to the Supplemental Nutrition Assistance Program (SNAP), as FDPIR specifically serves households living on or near Indian reservations that do not have easy access to SNAP offices or authorized food stores.

The Food and Nutrition Service (FNS) administers FDPIR at the Federal level through its national and regional offices. Locally, FDPIR is administered by either an Indian Tribal Organization (ITO)⁵ or an agency of a State Government (State agency).⁶ As of January 2018, approximately 276 Federally-recognized Tribes received FDPIR benefits,⁷ which were collectively provided by 102 ITOs and 3 State agencies. In fiscal year (FY) 2018, an average of 87,200 individuals participated in FDPIR each month.⁸ In FY 2018, \$153 million was appropriated for FDPIR—approximately \$105 million for USDA food in lieu of SNAP, and the

¹ Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-234, tit. IV, 122 Stat. 1903 (Food and Nutrition Act of 2008).

² FDPIR was established by the Food Stamp Act of 1977. In 2008, the Food Stamp Act was renamed the Food and Nutrition Act of 2008.

³ Agriculture and Consumer Protection Act of 1973, Pub. L. No. 93-86.

⁴ A reservation is a “geographically defined area, or areas, over which an ITO exercises governmental jurisdiction so long as such area, or areas, are legally recognized by the Federal or a State Government as being set aside for the use of American Indians” (USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1110 Definitions, Revision Dec. 2015).

⁵ An ITO consists of: “(1) the recognized governing body of an Indian [T]ribe on a reservation; (2) an Indian [T]ribe, band, or group, organized under the Oklahoma Indian Welfare Act of 1936, that has a [T]ribal organization approved by the Bureau of Indian Affairs; (3) a [T]ribal entity in Oklahoma established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (4) an intertribal organization authorized by the recognized governing bodies of two or more Indian [T]ribes to operate FDPIR on their behalf” (USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1110 Definitions, Revision Dec. 2015).

⁶ A State Agency consists of: “(1) an ITO, determined by FNS to be capable of effectively administering a Food Distribution Program, that enters into an agreement with FNS for the distribution of USDA foods on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma; or (2) the agency of a State Government, including its local offices, that enters into an agreement with FNS for the distribution of USDA foods on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma” (USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1110 Definitions, Revision Dec. 2015).

⁷ A Federally-recognized Tribe is “an American Indian or Alaska Native Tribal entity that is recognized as having a Government-to-Government relationship with the United States, with responsibilities, powers, limitations, and obligations attached to that designation, and is eligible for funding and services from the Bureau of Indian Affairs” (DOI Bureau of Indian Affairs, Frequently Asked Questions, <https://www.bia.gov/frequently-asked-questions>).

⁸ FY 2018 participation numbers reflect the 12-month average.

remainder for distributing agencies' expenses and nutrition education. Within Oklahoma, there are approximately 38 Federally-recognized Tribes⁹ and 15 ITOs.¹⁰ In FY 2018, there was an average of 30,833 individual participants in Oklahoma who received monthly benefits through FDPIR, which represented more than one third of FDPIR's participant total.¹¹

ITOs and/or State agencies—hereafter, ITOs—that want to participate in FDPIR must file an application with the FNS regional office (RO) that serves the State(s) in which the reservation, or “near area,” is located.¹² FNS determines if the ITO is capable of administering FDPIR after the ITO develops and submits a Plan of Operation for approval by FNS. The Plan of Operation includes the ITO's procedures for supervision, financial management, eligibility criteria, distribution of USDA commodities, and a plan to prevent dual participation in both FDPIR and SNAP. FNS will neither provide administrative funds nor USDA foods to an ITO until it approves the ITO's Plan of Operation. Additionally, the ITO must execute Form FNS-74, a “Federal State Agreement,” which sets out the requirements for administering FDPIR.

ITOs that operate the program are responsible for the following:

- determination of household eligibility;
- nutrition education;
- local storage of food in warehouses and the transportation of food;
- distribution of food to eligible recipient households; and
- program's integrity.

ITOs are also responsible for the control of and accountability for USDA foods, once delivered to storage facilities, and for the issuance or distribution of USDA foods to eligible households. ITOs must operate FDPIR in accordance with Federal requirements, including:

- accounting for program funds and ensuring program costs are allowable;
- maintaining all program records for a period of 3 years;¹³
- claiming administrative expenses for reimbursement that meet program requirements;
- monitoring compliance with program requirements;
- meeting training requirements for administrative and distribution personnel;
- maintaining proper sanitation and health standards;
- retaining financial and administrative responsibility for program operations; and
- meeting program outreach requirements.

⁹ National Conference of State Legislatures, Federal and State Recognized Tribes, <http://www.ncsl.org/research/state-tribal-institute/list-of-federal-and-state-recognized-tribes.aspx#ok>.

¹⁰ FNS FDPIR, Contacts, <https://www.fns.usda.gov/fdpir/contacts/all>.

¹¹ FNS FDPIR, Food Distribution Program Tables, <https://www.fns.usda.gov/pd/food-distribution-program-tables>.

¹² “Near area means an area approved by FNS for service by the Food Distribution Program that is outside the geographic boundaries of a reservation. Urban places in near areas cannot be served, unless FNS has granted a waiver” (USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1110 Definitions, Revision Dec. 2015).

¹³ Records must be maintained for a period of 3 years from the date of the submission of the final Form SF-425, Federal Financial Report (USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1510 Definitions, Revision Dec. 2015).

Each ITO must also monitor and review its operations, at least annually, to ensure compliance with all the requirements for FDPIR administration.

The FNS national office awards FDPIR funding to ITOs through the FNS ROs. FNS ROs provide oversight to ensure that ITOs properly administer and monitor the program. In this oversight role, FNS ROs monitor the ITOs' use of funds and distribution of foods through reviews of various submitted reports.¹⁴ In addition, FNS ROs conduct onsite financial and programmatic monitoring of FDPIR through management evaluations (ME). An ME is used to monitor an ITO's compliance with Federal regulations and FNS requirements. In the ME, an FNS RO must document any observed program deficiencies and initiate specific plans for corrective action to remedy the deficiencies noted.

Objective

Our objective was to evaluate and test controls over household eligibility; administrative costs; and damaged, spoiled, and loss of food.

We did not identify any specific instances of misuse of administrative funds nor excessive claims for damaged, spoiled, or lost food during our audit. However, we concluded that the reported ITO noncompliance increases the risk that these issues could occur.

¹⁴ Required reports include: Form SF-425, Federal Financial Report; Form FNS-152, Monthly Distribution of Donated Foods to Family Units; Form FNS-101, Participation in Food Programs—By Race; and Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

Finding 1: FNS Needs to Ensure ITO Compliance with Federal Regulations and Agency

Neither of the two selected ITOs in our audit complied with all Federal regulations and FNS requirements related to program administration and eligibility determinations for FDPIR. This occurred, in part, because FNS Southwest Regional Office (SWRO) officials—who were responsible for oversight of the two ITOs—lacked specific documented procedures to escalate issues of ITO noncompliance. We did not identify any specific instances of misuse or abuse of program funds during our audit. However, ITO noncompliance with program administration and eligibility requirements for FDPIR increases the risk that ineligible participants receive program benefits; administrative funds are misused; and unnecessary claims for damaged, spoiled, or lost food occur.

Our audit identified numerous instances where ITOs had either not: (1) fully and accurately completed Federal State agreements and plans of operation or (2) submitted required financial and participation reports in a timely manner. In addition, we found that although FNS requires ITOs to complete annual operations reviews, SWRO officials neither routinely obtain nor evaluate them. Our audit also identified incidences where ITOs did not have sufficient supporting documentation for their eligibility determination case files. The sections below provide details of our findings in the areas of program administration and participant eligibility.

Program Administration

Federal regulations require each participating ITO to execute a Federal State Agreement, which sets out the requirements for FDPIR administration and specifies that the ITO agrees to comply with program statutes and regulations, as well as FNS instruction and guidance.¹⁵ Additionally, an ITO that wants to assume responsibility for administering FDPIR must submit a Plan of Operation for approval by FNS.¹⁶ FNS will neither provide administrative funds nor USDA foods to an ITO until it approves its Plan of Operation. Federal regulations also require the ITO to keep records and submit specific reports to the FNS RO on a monthly, quarterly, and/or yearly basis, as required by FNS.^{17, 18} Lastly, Federal regulations state that ITOs review program operations at least annually, document program deficiencies, and establish and implement corrective action plans.¹⁹

¹⁵ 7 Code of Federal Regulations (C.F.R.) § 253.2 (State agency) and USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1520 Reports—ITO/State Agency to FNS, Revision Dec. 2015.

¹⁶ 7 C.F.R. § 253.5(a)(1).

¹⁷ Required reports include: Form SF-425, Federal Financial Report; Form FNS-152, Monthly Distribution of Donated Foods to Family Units; Form FNS-101, Participation in Food Programs—By Race; and Office of Management and Budget (OMB) Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

¹⁸ 7 C.F.R. § 253.4(e)(1)(iv); 7 C.F.R. § 253.5(h); and 7 C.F.R. § 253.11(j).

¹⁹ 7 C.F.R. § 253.5(i).

1—Required Documents Need Approval Signatures and Dates

One ITO's Federal State Agreement and Plan of Operation lacked signatures and dates by either the ITO official or SWRO Administrator, or both. Thus, in our view, these were not valid, official documents reflecting the ITO's agreement to administer FDPIR in accordance with the provisions of the agreement or Plan of Operation. In addition, the SWRO Administrator had not dated the ITO's Federal State Agreement upon signing. The SWRO Administrator also had not signed and dated the Federal State Agreement's addendums, and one of the addendums lacked the date of the ITO official's signature. The ITO's Plan of Operation also lacked an approval signature by the SWRO Administrator, which is needed to document FNS' approval. In fact, both the current and prior versions of the ITO's Plan of Operation were missing the SWRO Administrator's signature and date of signature.

When we discussed this issue with SWRO officials, they acknowledged that it was an oversight on their part and stated that they would obtain all signatures and dates. They also agreed to review documents for all ITOs overseen by SWRO to ensure they were accurately reviewed and approved in accordance with Federal regulations and FNS requirements. We also discussed this issue with FNS national officials. They agreed that all FNS RO officials should ensure that Federal State agreements and plans of operation were completed and approved properly.

It is important that Federal State agreements and plans of operation are fully completed by ITOs, and approved by FNS officials, to document that all parties understand their roles and responsibilities in administering FDPIR. By having this documentation, FNS officials can hold ITOs responsible and accountable in the event that FDPIR noncompliance results in the misuse of funds or other abuse of program assets.

2—Timely Submission of Financial and Participation Reports

Neither of the two ITOs in our audit had submitted its financial and participation reports by the required deadlines.²⁰ For instance, one ITO's final "close-out" FY 2017 SF-425 report was 271 days past due. The same ITO also had two FY 2017 FNS-152 reports that were 32 and 34 days past due. Per FNS guidance,²¹ each ITO participating in FDPIR must submit its required forms, each year, per the following schedule:

- Form SF-425, on a quarterly basis, on January 30, April 30, July 30, and October 30;
- Final "closeout" Form SF-425 report by December 30;
- Form FNS-101 by September 15; and
- Form FNS-152 on the 15th day of the month following when USDA foods are distributed.

²⁰ Required reports include: Form SF-425, Federal Financial Report; Form FNS-152, Monthly Distribution of Donated Foods to Family Units; Form FNS-101, Participation in Food Programs—By Race; and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations.

²¹ USDA FNS, *FNS Handbook 501, Chapter 1 General Provision*, § 1520 Reports—ITO/State Agency to FNS, Revision Dec. 2015.

As a result of our findings regarding the ITO discussed above, we expanded our review of report timeliness to include all 20 ITOs overseen by SWRO. Our expanded review included all reports submitted by the 20 ITOs for both FYs 2017 and 2018. Our expanded review identified the following instances of past due reports:²²

Table 1: Number of SWRO ITOs with past due reports, by fiscal year.

Number of ITOs with Past Due Reports in FYs 2017 and 2018 (out of 20 total ITOs)		
	FY 2017 ²³	FY 2018 ²⁴
Quarterly SF-425 Reports	0	2
“Close-out” SF-425 Reports	15	19 ²⁵
FNS-101 Reports	0	5
FNS-152 Reports	16	12

In addition, the FY 2017 Single Audit Report for one ITO included four findings related to FDPIR internal controls—one of which stated that SF-425 reports were not submitted within the required 30-day timeframe.²⁶ This single audit finding regarding the SF-425 reports is congruent with our audit finding.

We discussed this issue with ITO officials. They informed us that the individual responsible for submitting required reports had since left the ITO. We also reviewed the ITO’s written response to the FY 2017 Single Audit Report to determine its corrective action plan to resolve the untimely submission of financial reports to FNS. The ITO’s response stated that it was working with accounting advisors to create a process that identifies all grant funding that requires financial reporting and to develop procedures to ensure the reports are submitted timely.

It is critical that the ITO develop procedures to timely provide its financial reports because FNS uses them to ensure ITOs are regularly drawing down funds as well as to identify whether ITOs have over or underdrawn their allocated funds. The financial reports also allow FNS to determine if an ITO has expended more or less than it had withdrawn. If an

²² We reviewed all 20 ITOs’ reports under SWRO for FYs 2017 and 2018. We reviewed all of the following reports: quarterly SF-425 reports, “close-out” SF-425 reports, FNS-101 reports, and FNS-152 reports.

²³ FY 2017: quarterly SF-425 reports—no ITOs were past due; “close-out” SF-425 reports—13 ITOs were 41 to 95 days past due, 1 ITO was 146 days past due, and 1 ITO was 271 days past due; FNS-101 reports—no ITOs were past due; FNS-152 reports—16 ITOs were 32 to 48 days past due.

²⁴ FY 2018: quarterly SF-425 reports—1 ITO was 38 days past due and the other ITO was 59 and 114 days past due; “close-out” SF-425 reports—19 ITOs were at least 36 days past due; FNS-101 reports—1 ITO was 38 days past due and 4 ITOs were 61 days past due; FNS-152 reports—12 ITOs were 32 to 42 days past due.

²⁵ FNS stated that “close-out” SF-425 reports are tracked using the 5-year grant period and are therefore not identified by FNS as past due. However, FNS guidance states that “close-out” SF-425 reports are due December 30 each year. Therefore, we determined that the 19 ITOs who had not submitted their “close-out” SF-425 reports for FY 2018 were past due at the time we requested this information.

²⁶ Single Audit Reports are intended to ascertain the effectiveness of the ITO’s financial management controls and reporting systems, as well as the internal procedures that have been established to meet the terms and conditions for FDPIR funding.

ITO expended less than it withdrew, FNS would ask the ITO to explain the reasons and, if appropriate, request the ITO to return unused amounts to FNS.

FNS uses participation reports to track program activity at ITOs, occasionally reporting this information to Congress. Additionally, FNS uses participation reports to track households' certification versus participation to identify discrepancies as well as to track the inventories of food commodities on hand to ensure they correlate with participation levels. We asked SWRO officials if there was a control or process to ensure that ITOs submitted required reports in a timely manner. One official stated that SWRO did not have a documented standard operating procedure. The official also stated that if an ITO submitted late reports, SWRO would contact the ITO, by telephone or email, to identify the status of late reports. The official added that if an ITO is consistently submitting untimely reports, SWRO would report the issue to FNS' branch chief for Community Nutrition Programs. The branch chief would likely meet with the ITO, and the ITO could be added to SWRO's list of upcoming MEs. We verified that SWRO had contacted the ITO by email to request its overdue final "close-out" FY 2017 SF-425 report. However, SWRO did not initiate other actions to obtain the overdue report, such as meeting with the ITO or adding it to the list of MEs to be completed.

Although the SWRO official was able to verbally explain SWRO's basic process to address the late submission of required reports, there were no written procedures that documented the followup or escalation process when ITOs did not submit reports in a timely manner. Our audit identified that the majority of SWRO's ITOs had submitted untimely report(s) at some point during FYs 2017 and 2018 (see Table 1). As a result, we concluded that ITOs' late submission of required reports was a prevalent issue that needs to be acknowledged and addressed by SWRO officials. By obtaining all financial and participation reports, as required, SWRO can timely and effectively assess reports to ensure compliance and address potential issues.

3—Annual Operations Reviews

FNS requires ITOs to monitor and review their operations, at least annually, to ensure compliance with all requirements for the administration of FDPIR. The purpose of these annual operations reviews is for ITOs to identify and document program deficiencies, and initiate specific plans to correct the deficiencies. Although FNS requires ITOs to complete annual operations reviews, Federal regulations do not require ITOs to routinely submit annual operations reviews to ROs.²⁷ Thus, SWRO officials do not routinely obtain ITOs' annual operation reviews or corrective action plans.

We found that both ITOs in our audit had completed their annual operations reviews for FYs 2017 and 2018 and identified program deficiencies related to their administration of FDPIR. SWRO had not, however, obtained these annual operations reviews and was not aware of the deficiencies. In our view, SWRO officials should have been aware of the program deficiencies and, at least in some instances, taken action to ensure the ITOs

²⁷ As per guidance, an RO has the right to request an ITO's annual operations review at any time.

corrected them. For example, one ITO identified in its FY 2017 review that it had not submitted SF-425 quarterly reports on a timely basis. We identified this same issue with the ITO's untimely SF-425 reports during our audit, as previously discussed in Subsection 2 of this finding. That issue could have been prevented if SWRO had obtained the ITO's annual operations reviews and ensured corrective actions had been taken. In another example, the other ITO identified in its FY 2017 review that the program director had not conducted a recent health and safety inspection of the FDPIR facility. Again, if SWRO had obtained this ITO's annual operations reviews, it would have been alerted to this issue and whether the ITO had taken corrective action on the matter.

SWRO officials informed us that they only obtain and examine an ITO's annual operations review during an ME. We examined FNS' guidance and identified that FNS RO officials are only required to obtain an ITO's most recent annual operations review. As such, SWRO officials, as well as other FNS RO officials, are only required to assess the most recent annual operations review through the ME. Since SWRO's policy is to perform MEs only once every 5 years, it is unlikely that SWRO would be aware of program deficiencies identified by ITOs, including any planned corrective actions. SWRO previously performed an ME review for one of the ITOs in 2012, and in 2015 for the other ITO. Thus, there were several years where agency officials had no knowledge of either ITO's program deficiencies or planned corrective actions.

It is our view that FNS should require its ROs to obtain and review all completed annual operations reviews from ITOs. This requirement would enable FNS ROs to ensure ITOs are accurately and adequately completing annual operations reviews, as well as identifying and addressing issues or problematic trends affecting ITOs' administration of FDPIR.

Program Eligibility Determinations

Federal regulations require ITOs to maintain documentation that "shall be in sufficient detail to permit a reviewer to determine the reasonableness and accuracy of the determination."²⁸ From each of the two ITOs in our audit, we non-statistically selected 25 case files—consisting of 20 approved and 5 denied determinations—to assess the reasonableness and accuracy of household eligibility determinations.²⁹

We did not have concerns with the ITOs' determinations for the 10 total, denied cases. There was sufficient evidence in the case files for us to confirm the reasonableness and accuracy of the ITOs' determinations that those households were ineligible to participate in the program.

Additionally, we did not identify any issues with one ITO's 20 approved eligibility determinations. We did, however, question 9 of the other ITO's 20 approved determinations.

²⁸ 7 C.F.R. § 253.7(a)(6)(iv).

²⁹ We selected the case files for our sample using the same criteria that FNS officials use when conducting an ME. Per FNS ME guidance, reviewers are to select either 10 percent or 20 case files for review to determine whether ITOs accurately followed certification procedures. FNS' guidance also states that reviewers are to select at least five inactive, closed, and/or denied case files.

For those nine cases, we identified four instances where the ITO made errors during its eligibility determination process. For example, we concluded that one household was actually ineligible to receive food benefits in the program;³⁰ the ITO had incorrectly applied a 20 percent deduction to the household's unearned income, which should not have received a deduction according to FNS guidance.³¹ As a result, the ITO incorrectly certified the household as eligible for a 3-month period during the scope of our audit. In two other cases, the ITO incorrectly calculated income for the households.³² In the last case, the ITO did not obtain the applicant's signature and date on the application.

We questioned ITO eligibility determinations for the remaining five of the nine cases on the basis of the case files not containing sufficient evidence for us to confirm reasonableness and accuracy.³³ For three of the five cases, we found that third-party documentation certifying \$0 income for household members was submitted via handwritten scraps of paper and placed in the case files. The documentation did include the names of the individuals making the statements, but lacked sufficient and reasonable verifiable information, such as telephone numbers or addresses, for the individuals. In another case, the ITO did not properly document its verification that the household did not dually participate in similar agency programs. Finally, in the last case, there was no evidence that the ITO had received verified income for one member of the household.

It is critical that household eligibility determinations are accurate to ensure that only eligible participants receive program benefits. Additionally, it is critical that reviewers are able to verify that ITOs followed required procedures when determining household eligibility. To that end, case files must contain sufficient documentation to support ITO decisions.

We asked SWRO officials how they ensure that ITOs sufficiently document and accurately determine household eligibility. One official stated that regional staff review the sufficiency of documentation and accuracy of eligibility determinations when examining ITO case files during MEs. If SWRO officials identify documentation or accuracy issues, they discuss them with the ITO's certification specialist. If warranted, SWRO would require corrective action. The SWRO official also stated that one potential recommendation to ITOs would be to request the certification specialist to complete eligibility certification training modules, which are available online through FNS' website. However, the official added that SWRO does not require ITO certification specialists to complete the online training modules.

³⁰ There was no monetary impact as the household received food benefits and there is no standard monetary value placed on the food benefit received by households through FDPIR. The food benefit is dependent on the size of the household, which varies, and households are not required to obtain all food benefits they are deemed eligible to receive.

³¹ A 20 percent deduction is applied to gross earned income, including self-employment income.

³² Although the ITO incorrectly calculated income, the errors did not impact the households' eligibility to participate in FDPIR. Therefore, there was no monetary impact as the households were eligible to participate in FDPIR.

³³ There was no monetary impact as we questioned the eligibility determination documentation and did not identify the households as ineligible to participate in FDPIR. Additionally, the households received food benefits and there is no standard monetary value placed on the food benefit received by households through FDPIR. The food benefit is dependent on the size of the household, which varies, and households are not required to obtain all food benefits they are deemed eligible to receive.

We also asked an SWRO official about reviewing ITO eligibility certification files outside of MEs. The official stated that SWRO did not have a policy to review ITO case files outside of the ME process. As such, SWRO officials review ITO eligibility case files only once every 5 years during the ME process. Based on the official's statement and the results of our audit, it is our view that SWRO should require the certification specialist, for the one ITO with identified deficiencies, to complete eligibility certification training. By doing this, SWRO would have increased assurance that the ITO's certification specialist is aware of the requirements for determining and documenting eligibility case files.

We discussed the documentation and accuracy of eligibility determination issues with FNS national officials. One national official stated that FNS can provide training to address the eligibility certification issues identified by our audit. The official also identified the online eligibility certification training modules as a means to address issues with eligibility determinations. This is the same training that an SWRO official informed us about, but the national official also stated that it is not required by Federal regulations. It is our view that FNS should provide ITOs with online training when significant issues are identified during MEs or other reviews, such as those we identified during our audit.

The national official added that ITOs can use an array of different methods to document eligibility determinations and that FNS was opposed to requiring ITOs to use specific methods. We understand FNS' concerns about requiring ITOs to use specific methods and documents to support eligibility determinations. However, it is our view that FNS should develop and implement additional guidance that describes what would be considered reasonable and sufficient, documentation to adequately support eligibility determinations and to document third-party verification for any FDPIR applicant who reports \$0 income.

Conclusion

Overall, FNS national officials generally agreed with our findings and recommendations. In addition, we recommend that SWRO conduct an ME, as soon as possible, for the ITO we identified as having eligibility-related documentation deficiencies.

Recommendation 1

Require SWRO to review all current, and future changes to FDPIR Federal State agreements and plans of operation, for the ITOs within its jurisdiction, to ensure that they reflect relevant updates and confirm that forms are signed and dated by all required parties.

Agency Response

In its December 20, 2019, response, FNS concurred with the recommendation. The SWRO has already taken action to review all current FDPIR Federal State agreements and plans of operation within its jurisdiction to ensure that they accurately reflect relevant updates and that they are signed and dated by all required parties. This review was initiated during the course of this audit and completed in June 2019. FNS will use this practice across all FNS regional offices that serve

FDPIR and will continue to require that State agreements and plans of operation are reviewed moving forward as changes occur. FNS completed this action in June 2019.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Require SWRO to develop and implement a documented process to ensure ITOs timely submit all required FDPIR reports. The process should include procedures for following up with ITOs that do not submit reports timely and procedures to escalate actions against ITOs that continue to be noncompliant in this area.

Agency Response

In its December 20, 2019, response, FNS concurred with this recommendation. FNS has revised its risk-based management evaluation tool for FDPIR during the course of this audit to systematically assess and capture late or noncompliance of report submission. FNS has also continued development of the Integrated Food Management System (IFMS), a web-based software system which will replace the Automated Inventory System (AIS) currently used for the program. FNS believes that these system changes will allow regional offices to better monitor and control report submissions and lead to significantly less instances of late reporting. Nevertheless, SWRO will work with the FNS National Office to document formal followup and escalation procedures in the case that untimeliness and noncompliance with reporting continues. The estimated completion date is September 20, 2020.

OIG Position

We accept management decision for this recommendation.

Recommendation 3

Require SWRO to routinely obtain and evaluate ITO's completed annual operations reviews to identify potential issues or trends as well as to ensure that ITOs implement corrective actions to address issues or concerns.

Agency Response

In its December 20, 2019, response, FNS concurred with this recommendation. On November 11, 2019, the FNS National Office released an updated FY20 Management Evaluation (ME) Module for use by all regional office in conducting FDPIR ME reviews in FY 2020. The module now requires regional offices to review an ITO/State Agencies (SAs) annual operations review for the three previous years. This is an increase from the previous requirement to review only the prior year's operations review. Additionally, the FNS National Office, in coordination with

all FNS regional offices, will evaluate current program requirements and regional office practices related to oversight of FDPIR operation reviews conducted annually. FNS will implement new guidance to ensure that all ITO/SA annual operation reviews are conducted annually, as required, and establish a process for regional offices to routinely utilize past reviews as an oversight tool to ensure program integrity. The estimated completion date is September 30, 2020.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Direct SWRO to work with the certification specialist from the ITO with identified documentation deficiencies to complete eligibility certification training.

Agency Response

In its December 20, 2019, response, FNS concurred with this recommendation. SWRO will work to ensure that the certification specialist from the ITO completes the eligibility certification training as soon as possible, but no later than March 1, 2020. Estimated completion date March 1, 2020.

OIG Position

We accept management decision for this recommendation.

Recommendation 5

Develop and implement additional guidance to the FNS Handbook 501, Chapter 3, Section 3533, to include a description of what would be considered reasonable and sufficient documentation to adequately support eligibility determinations and to document third-party verification for any FDPIR applicant who reports \$0 income.

Agency Response

In its December 20, 2019, response, FNS concurred with this recommendation. The FNS National Office will update the FNS Handbook 501, Chapter 3, Section 3533 to include a description of what would be considered reasonable and sufficient documentation to adequately support eligibility determinations and to document third-party verification for any FDPIR applicant who reports \$0 income. Estimated completion date September 30, 2020.

OIG Position

We accept management decision for this recommendation.

Recommendation 6

Require SWRO to conduct an ME of the ITO that lacked adequate documentation in its eligibility determination case files.

Agency Response

In its December 20, 2019, response, FNS concurred with this recommendation. SWRO has already taken action to schedule an ME for the ITO in FY 2020. Estimated completion date September 30, 2020.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

We conducted an audit of FNS' FDPIR as part of a Council of the Inspectors General on Integrity and Efficiency (CIGIE)³⁴ effort, which was initiated by the U.S. Department of Health and Human Services OIG and included the U.S. Department of the Interior OIG.³⁵ We performed fieldwork from May 2018 through September 2019 at the FNS national office in Alexandria, Virginia; SWRO in Dallas, Texas; and two non-statistically selected ITOs in Oklahoma. Our audit covered FDPIR activities for FY 2017; we observed each ITO's distribution of FDPIR foods and commodities as well as its warehouse operations during August and September 2018.

We non-statistically selected the State of Oklahoma as it had the highest FY 2017 State participation (about 33,000 monthly participants) and administrative funding levels (annual funding of over \$11 million). FDPIR's nationwide administrative funding level for FY 2017 was almost \$43.4 million. We non-statistically selected 2 of Oklahoma's 15 ITOs based on: (1) FY 2017 FDPIR administrative funding and (2) FY 2016 Single Audit Report findings regarding FDPIR.

To accomplish our audit objectives, we:

- reviewed applicable laws and regulations covering FDPIR and FNS guidance established for FDPIR;
- assessed ITO administration and distribution center compliance with FDPIR guidelines;
- interviewed Federal agency officials regarding the administration and oversight of FDPIR, including officials at the national and SWRO levels;
- reviewed and assessed records and supporting documentation at SWRO related to ME reports and ITO financial reports;³⁶
- interviewed ITO staff regarding their administration and oversight of FDPIR;
- visited ITO offices, distribution centers, and warehouses to observe the FDPIR eligibility certification process, the process for ensuring the safe storage of foods, the process for preventing the loss of foods, and the process for confirming that participants were obtaining eligible foods; and
- reviewed and assessed sampled ITO records and supporting documentation—such as financial statements, receipts, and certification records—to evaluate the permissibility of administrative costs, accuracy of participant eligibility, and ITO compliance with FDPIR regulations and requirements.

³⁴ CIGIE is an independent entity established within the executive branch to address integrity, economy and effectiveness issues that transcend individual Government agencies and aid in the establishment of a professional, well-trained, and highly skilled workforce in the offices of Inspectors General.

³⁵ As part of this effort, each participating OIG agreed to conduct audit work at the same ITO in Oklahoma and each OIG would audit the specific program areas under its purview.

³⁶ For our review of ITO report timeliness, we expanded our scope to include all ITOs overseen by SWRO. In addition, we expanded our review to include both FYs 2017 and 2018.

During the course of our audit, we did not solely rely on or verify information in any agency information systems, and we make no representation regarding the adequacy of any agency computer systems or the information generated from them because the fundamental processes related to the engagement objective did not rely on information systems or information technology.

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 objective. We believe the evidence we obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Abbreviations

C.F.R.	Code of Federal Regulations
CIGIE	Council of the Inspectors General on Integrity and Efficiency
FDPIR	Food Distribution Program on Indian Reservations
FNS	Food and Nutrition Service
FY	fiscal year
ITO	Indian Tribal Organization
ME	management evaluation
OIG	Office of Inspector General
OMB	Office of Management and Budget
RO	regional office
SF	Standard Form
SNAP	Supplemental Nutrition Assistance Program
SWRO	Southwest Regional Office
USDA	U.S. Department of Agriculture

**AGENCY'S
RESPONSE TO AUDIT REPORT**

United States
Department of
Agriculture



Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

DATE: December 20, 2019

AUDIT

NUMBER: 27601-0001-21

TO: Gil H. Harden
Assistant Inspector General for Audit

FROM: Pamilyn Miller /s/
Administrator
Food and Nutrition Service

SUBJECT: Food Distribution Program on Indian Reservations

This letter responds to the official draft report for audit number 27601-0001-21, Food Distribution Program on Indian Reservations (FDPIR). Specifically, the Food and Nutrition Service (FNS) is responding to the six recommendations in the report.

FNS supports the Office of Inspector General's (OIG) objectives to assess the controls FNS has in place to ensure that Indian Tribal Organizations (ITOs) and State agencies (SAs) that administer FDPIR are complying with all Federal regulations and program requirements. FNS strongly believes that the integrity of FDPIR operations must be preserved in order to effectively serve the over 85,000 individuals who participate in the program.

FDPIR is administered by FNS at the federal level and locally by either an ITO or an agency of a state government. Currently, 102 ITOs and 3 SAs administer the program serving approximately 276 federally-recognized Tribes nationwide. Six out of FNS' seven Regional Offices oversee one or more FDPIR programs. Currently, there are no Tribes administering FDPIR in the Mid-Atlantic Region.

As is the case with all six FNS Regional Offices that support FDPIR, the Southwest Regional Office (SWRO) works closely with local administrators in the state of Oklahoma to ensure that FDPIR is operating properly. Federal oversight begins before participation in the program, as FDPIR regulations require that ITOs and State agencies interested in operating the program undergo an application process to prove themselves capable of effective and efficient administration. After this initial approval, ITOs/SAs must submit a detailed Plan of Operation for approval by FNS that identifies how the program will be operated, including methods by which the administering agency shall supervise the program. Once the plan is approved, ITOs/SAs are then subject to routine programmatic and financial reporting and monitoring requirements, and must conduct annual internal reviews of operations.

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All FNS Regional Offices conduct risk-based management evaluations (MEs) of ITOs/SAs to ensure compliance with FDPIR regulatory requirements. As the audit background section describes, a FNS Regional Office must document any observed program deficiencies and the ITO/SA has to develop and implement specific plans for corrective action to remedy any deficiencies noted in the ME. In Fiscal Year (FY) 2019, FNS Regional Offices initiated 24 MEs of FDPIR operations, including 4 MEs of ITOs operating FDPIR in Oklahoma.

To further support program integrity in FDPIR, FNS developed a risk-based management evaluation tool process in FY 2018 to better identify ITOs and SAs that pose high risk for fraud, waste, and abuse in FDPIR. The tool evaluates risk-based criteria based on use of administrative funds, food inventory levels and management, civil rights, and staffing needs. The tool identified ITOs for Management Evaluations starting in FY 2019. In FY 2019, FNS revised the tool to better address program changes resulting from regulatory revisions, and added new criteria based on preliminary findings from this audit. Specifically, the tool now assesses submission of monthly and quarterly reports due to FNS. Those changes were used, in part, to identify ITOs for Management Evaluations in FY 2020.

FNS is also developing a new food inventory management system for FDPIR program staff to use. The new system, called the Integrated Food Management System (IFMS), is a web-based system which will replace the existing system, the Automated Inventory System (AIS). IFMS will automate and accelerate many reporting processes that were flagged as problematic during the course of this audit. For example, under AIS, the FNS-152, a required monthly food inventory report, is downloaded every month by individual FDPIR programs and e-mailed to the appropriate Regional Office staff. Under the new system, the same report will be available for direct download by the Regional Office at the end of each month. Development of IFMS began in 2017 and has a projected implementation time-line beginning April 2020. FNS anticipates full implementation by the end of calendar year 2021.

FNS recognizes that there is always room for improvement in providing oversight and technical assistance to the over 100 ITOs and SAs that work to administer FDPIR at the local level. The results of this audit will help FNS to further strengthen these critical oversight procedures.

OIG Recommendation 1:

Require SWRO to review all current, and future changes to FDPIR Federal State agreements and plans of operation, for the ITOs within its jurisdiction, to ensure that they

reflect relevant updates and confirm that forms are signed and dated by all required parties.

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FNS Response:

FNS concurs with this recommendation. The SWRO has already taken action to review all current FDPIR Federal State agreements and plans of operation within their jurisdiction to ensure that they accurately reflect relevant updates and that they are signed and dated by all required parties. This review was initiated during the course of this audit and completed in June 2019. FNS will use this practice across all FNS Regional Offices that serve FDPIR and will continue to require that State agreements and plans of operation are reviewed moving forward as changes occur.

Estimated Completion Date:

Complete as of June 30, 2019

OIG Recommendation 2:

Require SWRO to develop and implement a documented process to ensure ITOs timely submit all required FDPIR reports. The process should include procedures for following up with ITOs that do not submit reports timely, and procedures to escalate actions against ITOs that continue to be noncompliant in this area.

FNS Response:

FNS concurs with this recommendation. FNS has revised its risk-based management evaluation tool for FDPIR during the course of this audit to systematically assess and capture late or noncompliance of report submission. FNS has also continued development of the Integrated Food Management System (IFMS), a web-based software system which will replace the Automated Inventory System (AIS) currently used for the program. FNS believes that these system changes will allow Regional Offices to better monitor and control report submissions and lead to significantly less instances of late reporting. Nevertheless, the SWRO will work with the FNS National Office to document formal follow-up and escalation procedures in the case that untimeliness and noncompliance with reporting continues. FNS will ensure that these procedures are in place no later than September 20, 2020 and apply to all ITOs and State agencies that administer FDPIR.

Estimated Completion Date:

September 20, 2020

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OIG Recommendation 3:

Require SWRO to routinely obtain and evaluate ITO's completed annual operations reviews to identify potential issues or trends as well as to ensure that ITOs implement corrective actions to address issues or concerns.

FNS Response:

FNS concurs with this recommendation, and has already taken preliminary action. On November 11, 2019, the FNS National Office released an updated FY20 Management Evaluation Module for use by all Regional Office in conducting FDPIR ME reviews in FY 2020. The module now requires Regional Offices to review an ITO/SA's annual operations review for the three previous years. This is an increase from the previous requirement to review only the prior year's operations review. Additionally, the FNS National Office, in coordination with all FNS Regional Offices, will evaluate current program requirements and Regional Office practices related to oversight of FDPIR operation reviews conducted annually. FNS will implement new guidance to ensure that all ITO/SA annual operation reviews are conducted annually, as required, and establish a process for Regional Offices to routinely utilize past reviews as an oversight tool to ensure program integrity. FNS will complete this no later than September 30, 2020.

Estimated Completion Date:

September 30, 2020

OIG Recommendation 4:

Direct SWRO to work with the certification specialist from the ITO with identified documentation deficiencies to complete eligibility certification training.

FNS Response:

FNS concurs with this recommendation. The SWRO will work to ensure that the certification specialist from the ITO completes the eligibility certification training as soon as possible, but no later than March 1, 2020.

Estimated Completion Date:

March 1, 2020

Gil Harden

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OIG Recommendation 5:

Develop and implement additional guidance to the FNS Handbook 501, Chapter 3, Section 3533, to include a description of what would be considered reasonable and sufficient documentation to adequately support eligibility determinations and to document third-party verification for any FDPIR applicant who reports \$0 income.

FNS Response:

FNS concurs with this recommendation. The FNS National Office will update the FNS Handbook 501, Chapter 3, Section 3533 to include a description of what would be considered reasonable and sufficient documentation to adequately support eligibility determinations and to document third-party verification for any FDPIR applicant who reports \$0 income. FNS will complete this update no later than September 30, 2020.

Estimated Completion Date:

September 30, 2020

OIG Recommendation 6:

Require SWRO to conduct an ME of the ITO that lacked adequate documentation in its eligibility determination case files.

FNS Response:

FNS concurs with this recommendation. The SWRO has already taken action to schedule an ME for the ITO in FY 2020. This ME will be conducted no later than September 30, 2020.

Estimated Completion Date:

September 30, 2020

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