



OFFICE OF INSPECTOR GENERAL  
U. S. DEPARTMENT OF AGRICULTURE





# Supplemental Nutrition Assistance Program Waiver Process

## Audit Report 27601-0006-41

We evaluated FNS' policies and procedures for administration of SNAP waivers to determine whether FNS has adequate controls to ensure the SNAP waiver process complies with requirements.

### OBJECTIVE

Our objective was to evaluate the SNAP waiver process. Specifically, we sought to determine whether FNS had adequate controls in place to reasonably ensure the SNAP waiver process was complying with statute and other program requirements.

### WHAT OIG FOUND

The Food and Nutrition Service (FNS) administers the Supplemental Nutrition Assistance Program (SNAP), which was designed to increase the food purchasing power of eligible, low-income households to help the households obtain a more nutritious diet. SNAP, the largest Federal nutrition assistance program, cost more than \$113 billion in FY 2021. Certain statutes and program regulations provide FNS with the authority to waive SNAP rules under specified circumstances.

### REVIEWED

To accomplish our audit objective, we reviewed pertinent laws (statutes) and regulations, and current policies and procedures in place during fiscal years 2017 to 2019; and interviewed FNS National Office officials.

Our review of SNAP waiver policies and procedures found that the divisions responsible for issuing waivers did not consistently document policies and procedures, and did not meet Departmental recordkeeping requirements. According to FNS officials, this occurred because some waivers were too unique for standardized, documented policies and procedures to be effective, and procedures that were not formally documented were communicated to personnel through meetings or emails. As a result, there is reduced assurance that approved waivers meet regulatory and statutory requirements. FNS agreed with our recommendations and we accepted FNS' management decision on both recommendations in this report.

### RECOMMENDS

We recommend that FNS ensure all SNAP waiver policies and procedures are documented as required; and maintain adequate and proper documentation, including records such as policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.





## OFFICE OF INSPECTOR GENERAL

United States Department of Agriculture



**DATE:** January 3, 2023

**AUDIT**

**NUMBER:** 27601-0006-41

**TO:** Cindy Long  
Administrator  
Food and Nutrition Service

**ATTN:** Amanda Musgrove  
Acting Director  
Office of Internal Controls, Audits and Investigations

**FROM:** Yarisís Rivera Rojas  
Acting Assistant Inspector General for Audit

**SUBJECT:** Supplemental Nutrition Assistance Program Waiver Process

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 audit recommendations in the report, and no further response to this office is necessary.

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 the Office of the Chief Financial Officer (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 (<https://usdaoig.oversight.gov>) in the near future.



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# Background and Objective

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## Background

The Supplemental Nutrition Assistance Program (SNAP) provides important nutritional support for low-wage working families, low-income seniors and people with disabilities living on fixed incomes, and other individuals and households with low incomes. The Food and Nutrition Service (FNS) administers SNAP at the Federal level. States operate the program at the local level, determining eligibility and issuing benefits to eligible households. SNAP is the largest Federal nutrition assistance program.<sup>1</sup> In fiscal year (FY) 2021, the total cost of SNAP was more than \$113 billion.

Statute and program regulations provide FNS with the authority to waive SNAP rules under specified circumstances, as discussed in the bullets below.<sup>2</sup> Three FNS divisions are responsible for issuing SNAP waivers: the Program Development Division (PDD); the Program Administration and Accountability Division (PAAD); and the Retailer Policy and Management Division (RPMD).<sup>3</sup> PDD issues disaster SNAP (D-SNAP) waivers, demonstration project waivers, and administrative waivers.<sup>4</sup> PAAD and RPMD both issue administrative waivers. These divisions review and approve SNAP waiver applications, establish any SNAP waiver operational conditions and performance reporting requirements, and monitor State agency administration of the approved waivers. Below are brief descriptions of the three different types of SNAP waivers included in our review and the statute and program regulations providing FNS with the authority to issue these waivers:

- **Administrative Waivers:** SNAP regulations allow FNS to authorize waivers for State agencies to deviate from specific regulatory provisions if: (1) the specific provision cannot be implemented due to extraordinary, temporary situations; (2) FNS determines the waiver would result in a more effective and efficient administration of the program; or (3) unique geographic or climatic conditions within a State preclude effective implementation of the specific regulatory provision and require an alternate procedure.<sup>5</sup> Per FNS, administrative waivers are the type of waiver most commonly requested by States and processed by FNS.
- **Demonstration Project Waivers:** By law, FNS has the authority to conduct demonstration projects to test changes to SNAP that may increase program efficiency and improve benefit

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<sup>1</sup> Benefits.gov, *Supplemental Nutrition Assistance Program (SNAP)*, [www.benefits.gov/benefit/361](https://www.benefits.gov/benefit/361) (last visited Aug. 18, 2022).

<sup>2</sup> SNAP waiver provisions are found in both statute and program regulations.

<sup>3</sup> During the audit, RPMD was renamed the Retailer and Issuance Policy and Innovation Division. In June 2022, FNS reorganized the Retailer and Issuance Policy and Innovation Division. It split into two divisions: Retailer Policy Division and Issuance Policy and Innovation Division. We use the acronym “RPMD” in our report, as that was the name the division used during the scope of our audit review.

<sup>4</sup> PDD also issues waivers related to Able Bodied Adults Without Dependents (ABAWD) requirements; due to changes published in 2019 in SNAP regulation regarding ABAWD waivers, we removed ABAWD waivers from the scope of our review. *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents*, 84 Fed. Reg. 66,782 (Dec. 5, 2019).

<sup>5</sup> 7 C.F.R. §272.3(c)(1).



delivery.<sup>6</sup> FNS considers this authority one of the agency's best tools to encourage State innovation, as it allows States to pilot and evaluate new ideas that may lead to new approaches in SNAP administration. The Act allows FNS to waive specified SNAP requirements in the Act to the extent necessary to conduct demonstration projects. Demonstration project waivers may also waive SNAP regulations.

- ***D-SNAP Waivers:*** The Robert T. Stafford Disaster Relief and Emergency Assistance Act, signed into law November 23, 1988, provides the Secretary of Agriculture with the authority to operate D-SNAP when affected areas have received a Presidential major disaster declaration and when commercial channels of food distribution are available.<sup>7</sup> The Food and Nutrition Act of 2008 provides the Secretary of Agriculture with the authority to establish temporary emergency standards of eligibility for households who are survivors of a disaster that disrupts commercial channels of food distribution after those channels have been restored.<sup>8</sup> D-SNAP provides 1 month of benefits to eligible disaster survivors and can facilitate the issuance of supplemental SNAP benefits for ongoing households. To be eligible for a D-SNAP payment, existing and new households must be in the identified disaster area, have been affected by the disaster, and meet certain D-SNAP eligibility criteria.

## Objective

Our objective was to evaluate the SNAP waiver process. Specifically, we sought to determine whether FNS has adequate controls in place to reasonably ensure the SNAP waiver process is complying with statute and other program requirements.

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<sup>6</sup> Food and Nutrition Act of 2008, as amended, 7 U.S.C. § 2011, *et seq.*; 7 U.S.C. § 2026(b) (Pilot projects).

<sup>7</sup> 42 U.S.C. § 5179; 7 U.S.C. § 2014(h).

<sup>8</sup> While the Food and Nutrition Act of 2008 gives this authority to the Secretary of Agriculture, the Secretary has delegated this function to the Under Secretary for Food, Nutrition, and Consumer Services. 7 C.F.R. § 2.19(a)(1)(iii).

## Finding 1: FNS Needs to Improve Documentation of Waiver Policies and Procedures and Maintain Better Records

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We found the divisions—PDD, PAAD, and RPMD—did not consistently have written policies and procedures for their SNAP waiver processes and did not meet Departmental recordkeeping requirements. According to FNS officials, this occurred because some waivers were too unique for standardized, documented policies and procedures to be effective, and that procedures that were not formally documented were communicated to personnel through meetings or emails. As a result, there is reduced assurance that approved waivers meet regulatory and statutory requirements.

United States Department of Agriculture (USDA) Departmental Regulation (DR) 3080-001, *Records Management*, states program managers shall create those records needed to ensure adequate and proper documentation of their area of responsibility.<sup>9</sup> It further states that employees shall create and maintain adequate and proper documentation of the Department's functions, policies, decisions, and essential transactions. Adequate and proper documentation is defined as a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency, and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

However, we found the three divisions did not sufficiently or consistently develop and document policies and procedures for the waiver process to meet the Department's definition of adequate and proper documentation noted above. While FNS created and maintained some documented SNAP waiver policies and procedures, the divisions lacked sufficient written policies and procedures for multiple SNAP waiver review processes.<sup>10</sup> Examples included:

- ***Waiver Review and Approval.*** We found one of the three divisions had no written procedures for how personnel were to determine whether waiver requests met statutory and regulatory requirements. The other two divisions had written procedures; however, these procedures did not clearly define review requirements. For example, per regulations, administrative waivers can only be approved when a State has a “compelling justification” for the waiver and the waiver request falls within specific regulatory situations, such as an FNS determination that the waiver will result in a more effective and efficient administration of SNAP.<sup>11</sup> Two divisions had no written procedures for how personnel were to determine whether these requirements were met. The written procedures of the third division did not identify what would constitute a “compelling

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<sup>9</sup> USDA Departmental Regulation 3080-001, *Records Management* (Aug. 16, 2016) at § 5.g.(2).

<sup>10</sup> Examples of documented policies and procedures included how to route waiver requests or how to prepare waiver approval letters.

<sup>11</sup> SNAP regulations at 7 C.F.R. § 272.3(c)(1) provides that requests for waivers may be approved only in the following situations: “(i) [t]he specific regulatory provision cannot be implemented due to extraordinary temporary situations . . . ; (ii) FNS determines that the waiver would result in a more effective and efficient administration of the program; or (iii) [u]nique geographic or climatic conditions within a State preclude effective implementation of the specific regulatory provision and require an alternate procedure . . . .”

justification,” or how personnel should determine whether waiver requests contained sufficient evidence of specific improvements. Without written procedures, there is reduced assurance that waivers approved meet regulatory and statutory requirements.

- ***Adequate and Proper Documentation.*** FNS did not always maintain adequate and proper documentation as defined by DR 3080-001.<sup>12</sup> For example, the Food and Nutrition Act of 2008 states that FNS will not approve a waiver or demonstration program unless: (1) any household that gets food assistance in a form other than an electronic benefits transfer (EBT) card has its allotment increased to compensate for applicable taxes; and (2) “the State agency conducting the demonstration project pays the cost of any increased allotments.”<sup>13</sup> FNS considers this part of the Act to be conditional, meaning that the State agency is required to pay this additional assistance only for non-EBT waivers. However, it is not evident that the Act intended these statements to be conditional because the second part of the statement does not specify whether it relates only to non-EBT waivers. After we discussed this with FNS, agency personnel were able to prepare and provide documentation to show how the agency concluded that its interpretation met the Act’s intent. However, this documentation should have been maintained previously to comply with applicable requirements.
- ***Compliance Monitoring Procedures.*** We found that the three divisions had no written compliance monitoring procedures for any of the waiver types in our review that they approved.<sup>14</sup> While FNS officials said personnel were monitoring State agency compliance, without written procedures we could not substantiate how or when this monitoring was supposed to be completed. Without documented policies and procedures, FNS has reduced assurance that personnel performing compliance reviews would do so consistently.

We discussed the need for written policies and procedures with FNS officials. FNS officials stated that SNAP waiver requests were often unique and too varied to capture in a single, standardized process. Officials also stated that SNAP waiver policies and procedures were orally communicated to personnel or sent via email. Additionally, an official stated that FNS personnel

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<sup>12</sup> DR 3080-001 requires that program managers and employees create and maintain adequate and proper documentation, defined as “a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency, and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency’s activities.”

<sup>13</sup> See 7 U.S.C. § 2026(b)(1)(C)(i) (“No waiver or demonstration program shall be approved . . . after November 28, 1990, unless . . . (I) any household whose food assistance is issued in a form other than EBT cards has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, the tax on purchases of food by any such household is waived, or the Secretary determines on the basis of information provided by the State agency that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and (II) the State agency conducting the demonstration project pays the cost of any increased allotments.”).

<sup>14</sup> The SNAP waiver types that did not have written monitoring procedures included administrative waivers, demonstration project waivers, and D-SNAP waivers. PDD also issues waivers related to ABAWD requirements; due to recent changes in SNAP regulations regarding ABAWD waivers, we removed ABAWD waivers from the scope of our review. *Supplemental Nutrition Assistance Program: Requirements for Able-Bodied Adults Without Dependents*, 84 Fed. Reg. 66,782 (Dec. 5, 2019).

had the training and experience to properly execute their duties and that personnel verbally discussed their waiver review activities with management.

While we understand that unique situations can occur during the waiver process, policies and procedures are required to be documented. Further, effective documentation assists in management's design of internal control by establishing and communicating the who, what, when, where, and why of internal control execution to personnel. "Documentation also provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel, as well as a means to communicate that knowledge as needed to external parties . . . ." <sup>15</sup>

Without written policies and procedures, FNS is missing an opportunity to retain organizational knowledge. While FNS officials maintained that SNAP waiver activities were being performed in compliance with requirements, they agreed that the divisions could improve the documentation of policies and procedures. To meet Federal documentation and record keeping requirements, FNS should ensure all SNAP waiver policies and procedures are documented, as required, and maintain adequate and proper documentation, including records of policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.

## **Recommendation 1**

Ensure all SNAP waiver policies and procedures are documented as required.

### **Agency Response**

FNS concurs with the recommendation. FNS will update the Waiver Handbook to reflect waiver policies and procedures across all SNAP divisions in order to ensure that waiver policies and procedures are documented as required.

### **OIG Position**

We accept management decision on this recommendation.

## **Recommendation 2**

Maintain adequate and proper documentation, including records such as policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.

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<sup>15</sup> Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government*, GAO-14-704G, ¶ 3.10 (Sept. 2014).

**Agency Response**

FNS concurs with the recommendation and will include procedures in the updated Waiver Handbook to maintain adequate and proper documentation, including records such as policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.

**OIG Position**

We accept management decision on this recommendation.



## Scope and Methodology

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We conducted an audit of FNS' policies and procedures for the administration of waivers for SNAP. The scope of our audit work covered policies and procedures for program activities related to waivers of three FNS divisions (PDD, PAAD, and RPMD) from FYs 2017 through 2019.<sup>16</sup> We performed fieldwork with the FNS National Office, located in Alexandria, Virginia, both in person and remotely from November 2019 to August 2022.

To accomplish our audit objective, we:

- Reviewed the pertinent laws and regulations governing SNAP waivers, and the current policies and procedures FNS established as guidance for its employees; and
- Interviewed FNS National Office officials to gain an understanding of their roles in administering SNAP waiver activities and the controls implemented to ensure SNAP waivers were issued in compliance with Federal program regulations and policies.

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 (for example, the fundamental processes of management evaluations, waiver memoranda, and the improper payment risk assessment are performed outside of information technology systems).

We assessed internal controls significant to the audit objectives. In particular, we assessed:

Component	Principle
Control Environment	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.
Control Activities	Management should design control activities to achieve objectives and respond to risks.
Control Activities	Management should implement control activities through policies.

Because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

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<sup>16</sup> During the audit, RPMD renamed itself the Retailer and Issuance Policy and Innovation Division. In June 2022, FNS reorganized the Retailer and Issuance Policy and Innovation Division. It split into two divisions: Retailer Policy Division and Issuance Policy and Innovation Division. We refer to the division as "RPMD" in our report, as that was the name the division used during the scope of our audit.

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

## Abbreviations

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ABAWD .....	Able Bodied Adults Without Dependents
C.F.R. ....	Code of Federal Regulations
DR .....	Departmental Regulation
D-SNAP .....	Disaster Supplemental Nutrition Assistance Program
EBT .....	electronic benefits transfer
FNS .....	Food and Nutrition Service
FY .....	fiscal year
GAO .....	Government Accountability Office
OIG .....	Office of Inspector General
PAAD.....	Program Administration and Accountability Division
PDD.....	Program Development Division
RPMD .....	Retailer Policy and Management Division
SNAP .....	Supplemental Nutrition Assistance Program
U.S.C.....	United States Code
USDA.....	United States Department of Agriculture



**FNS'**  
**Response to Audit Report**





Food and  
Nutrition  
Service

DATE: November 30, 2022

1320  
Braddock  
Place  
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, VA  
22314

AUDIT  
NUMBER: 27601-0006-41

TO: Steve Rickrode  
Acting Assistant Inspector General for Audit

FROM: Cindy Long /s/  
Administrator  
Food and Nutrition Service

SUBJECT: Supplemental Nutrition Assistance Program Waiver Process

This letter responds to the official draft report for inspection number 27601-0006-41, Supplemental Nutrition Assistance Program (SNAP) Waiver Process. Specifically, the Food and Nutrition Service (FNS) is responding to the two recommendations in the report.

FNS strives to maintain program integrity in all aspects of program administration, including our waiver review and approval process. FNS robustly analyzes every waiver request received to ensure it complies with all necessary regulatory and statutory requirements. As part of the waiver review process, FNS consults with subject matter experts across the program to holistically assess waivers' potential impacts on program integrity and operations. FNS works closely with legal counsel when reviewing new or novel requests to ensure legal sufficiency. While we agree that we could improve the documentation of our current waiver procedures, we are confident the methods and processes we have in place are compliant with all necessary requirements.

FNS acknowledges the importance of adequate controls to ensure the SNAP waiver process complies with all statutory, regulatory, and administrative requirements and is committed to documenting waiver policies and procedures going forward. As part of an ongoing effort to improve and standardize documentation of waivers, FNS launched the Waiver Information Management System (WIMS) in December 2020. Since that time, FNS has been regularly adding WIMS functionality to support ongoing process improvement and strengthen controls of SNAP waivers.

FNS also maintains that the waiver approval process must retain a certain degree of flexibility given the breadth and scope of State agency waiver requests across the program. The Food and Nutrition Act and SNAP regulations are designed to allow State agencies to tailor program administration to best meet their specific needs by selecting among numerous State options for certain policies, requesting waivers, or operating demonstration projects. Such flexibility enables States to respond to test innovative approaches to program administration and to continue to provide much-needed benefits during difficult circumstances, like natural disasters or the COVID-19 pandemic.

FNS will continue to work with SNAP State agencies that express interest in waivers and demonstration projects and to continue to strengthen recordkeeping requirements to ensure that approved waivers meet regulatory and statutory requirements.

**OIG Recommendation 1:**

Ensure all SNAP waiver policies and procedures are documented as required.

**FNS Response:**

FNS concurs with the recommendation. FNS will update the Waiver Handbook to reflect waiver policies and procedures across all SNAP divisions in order to ensure that waiver policies and procedures are documented as required.

**Estimated Completion Date:**

November 15, 2023

**OIG Recommendation 2:**

Maintain adequate and proper documentation, including records such as policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.

**FNS Response:**

FNS concurs with the recommendation and will include procedures in the updated Waiver Handbook to maintain adequate and proper documentation, including records such as policy decisions and regulatory and statutory interpretations, to ensure official agency records comply with applicable requirements.

**Estimated Completion Date:**

November 15, 2023

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