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Answers Questioned

SCHOOL MEAL PROGRAM DEPARTMENT OF EDUCATION

PERFORMANCE AUDIT JANUARY 2014

Cotton &
Company

Answers Questioned

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January 21, 2014

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the School Meal Program within the Office of School Nutrition at the Colorado Department of Education. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The Office of the State Auditor contracted with Cotton & Company LLP to conduct this audit. The report presents our findings, conclusions, and recommendations, and the responses of the Office of School Nutrition.

Sincerely,

A handwritten signature in blue ink that reads "Sam Hadley".

Sam Hadley, CPA, CFE, CGFM

TABLE OF CONTENTS

	PAGE
Glossary of Terms and Abbreviations	ii
Report Highlights.....	iii
Recommendation Locator	iv
CHAPTER 1 – Overview of the School Meal Program and the Colorado Office of School Nutrition.....	1
Colorado’s Participation in the School Meal Program	1
Program Eligibility	2
Program Participation.....	3
Program Administration	4
Program Expenditures	5
Upcoming Changes to Federal Requirements.....	6
Audit Purpose, Scope, and Methodology.....	6
CHAPTER 2 – Office of School Nutrition Operations.....	9
Compliance Monitoring – Eligibility and Nutrition Requirements	9
Compliance Monitoring – Financial	20
Direct Certification	26
Competitive Foods	32
School District Training and Technical Assistance	37
Federal Funding	44

Glossary of Terms and Abbreviations

CDE5 – Colorado Department of Education school nutrition program financial data report

CFR – Code of Federal Regulations

DHS -- Department of Human Services

Department – Colorado Department of Education

OSN – Office of School Nutrition, an office within the Colorado Department of Education

School Meal Program – The School Lunch and Breakfast Programs

School Food Authority – The governing body responsible for the School Food Program in one or more schools within a school district

SNAP – Federal Supplemental Nutrition Assistance Program

USDA – U.S. Department of Agriculture

SCHOOL MEAL PROGRAM Performance Audit, January 2014 Report Highlights

Office of School Nutrition
Department of Education

PURPOSE

Assess the Office of School Nutrition's (the OSN) oversight and administration of the School Lunch and Breakfast Programs (School Meal Program) in Colorado.

BACKGROUND

- The federally assisted School Meal Program provides nutritionally balanced and free or reduced-price lunches and breakfasts to eligible Colorado school children in pre-kindergarten through the twelfth grade.
- Participating school districts receive a federal reimbursement for each meal served. During the 2012-2013 School Year, school districts served a total of 61.6 million lunches and 24.8 million breakfasts to eligible children.
- In Fiscal Year 2013, the School Meal Program had expenditures of about \$175 million, with \$170.9 million coming from federal funds.
- The OSN is responsible for monitoring school districts' compliance with federal and state requirements related to the School Meal Program.

OUR RECOMMENDATIONS

The OSN should:

- Strengthen monitoring processes to ensure school district compliance with federal eligibility, nutritional, and financial requirements.
- Improve controls over the direct certification process.
- Ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value.
- Increase and enhance its delivery of training and technical assistance to school districts.
- Ensure that it is maximizing its use of available federal funds to support oversight and administration of the School Meal Program.

The OSN agreed with these recommendations.

AUDIT CONCERN

There are opportunities for the Office of School Nutrition to improve its oversight of the School Meal Program and school districts' compliance with state and federal eligibility and nutritional requirements.

KEY FACTS AND FINDINGS

- The OSN did not have an effective monitoring process in place to ensure that school districts comply with School Meal Program requirements and that violations are corrected timely. Specifically:
 - OSN compliance reviews did not identify all errors that could result in critical area violations, such as incorrect income calculations and incorrect determinations of eligibility.
 - The OSN did not conduct compliance reviews and apply fiscal sanctions in a consistent manner across school districts.
 - The OSN did not conduct follow up reviews of school districts when violations were found, beyond those minimally required by the U.S. Department of Agriculture (USDA).
 - The OSN did not take fiscal action for violations, beyond those minimally required by the USDA.
- The OSN did not have an effective monitoring process in place to ensure that school districts comply with School Meal Program financial requirements related to operating balances, paid lunch equity, and non-program revenues.
- The OSN does not have effective controls and systems in place to ensure that Colorado meets federal direct certification performance targets. According to the USDA, Colorado had a 68 percent direct certification rate, which was well below the 80 percent performance target mandated by federal law.
- The OSN does not have effective controls in place to ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value.
- Although the OSN has made positive changes to its training and technical assistance in recent years, further improvements are needed.
- The OSN does not make full use of the federal funds that are available to support its operations. During Federal Fiscal Years 2009 through 2012, the OSN returned almost \$700,000 in State Administrative Expense funds to the USDA from its original allocations.

RECOMMENDATION LOCATOR
Agency Addressed: Office of School Nutrition

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
1	18	<p>Strengthen monitoring processes to ensure that school districts comply with federal eligibility and nutritional requirements related to the School Meal Program by: (a) establishing and implementing policies and procedures related to compliance reviews that provide consistency regarding expanded testing and the application of fiscal actions, require the use of a consistent form to calculate and communicate the fiscal action to the district, and provide school districts with the specific, updated policy on when fiscal penalties will be assessed and the amount of the penalties; (b) training staff on the policies and procedures once implemented; and (c) working with the Department of Education to assess overall capabilities and resources to ensure that the Office of School Nutrition is able to fulfill its monitoring responsibilities related to the School Meal Program.</p>	Agree	a. August 2014 b. August 2014 c. April 2014
2	25	<p>Improve the effectiveness of monitoring processes by: (a) defining and communicating to school districts a standard timeframe for purposes of calculating 3-month operating balances; (b) working with the Department of Education to ensure that the data it uses to monitor school district compliance are accurate for purposes of calculating operating balances, paid lunch equity, and non-program revenue; (c) performing timely verification of school district action when there is initial non-compliance with paid lunch equity requirements; and (d) providing sufficient training and guidance to school district staff on paid lunch equity and non-program revenue calculations so the districts are better able to report accurate data and understand the implications of noncompliance with these requirements.</p>	Agree	a. April 2014 b. Implemented c. Implemented d. Implemented and Ongoing

RECOMMENDATION LOCATOR
Agency Addressed: Office of School Nutrition

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
3	30	Improve controls over the direct certification process by: (a) implementing a comprehensive monitoring process to verify that school districts are directly certifying all eligible children for the School Meal Program; (b) continuing to implement the new data interface system and, when implemented, seeking feedback from school districts regarding their experiences with any increases in the number of matches and any decreases in the amount of manual processing required for unmatched records; (c) conducting the planned one-time gap analysis of the direct certification process, including performing a root-cause analysis for the gaps or issues identified; (d) coordinating with the Department of Human Services to receive more frequent and timely Supplemental Nutrition Assistance Program (SNAP) updates, particularly in the months of July and August; and (e) working with the Department of Human Services to update the written agreement regarding the exchange of SNAP data.	Agree	a. Implemented b. October 2014 c. June 2015 d. April 2014 e. May 2014
4	36	Ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value by establishing and implementing policies and procedures to enhance the effectiveness of monitoring efforts and enforcement of these requirements. Once the policies and procedures are implemented, the Office of School Nutrition should communicate this information to the school districts, including district superintendents.	Agree	August 2014

RECOMMENDATION LOCATOR
Agency Addressed: Office of School Nutrition

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
5	42	Increase and enhance the delivery of training and technical assistance to school districts by: (a) regularly disseminating to school districts a detailed outline of all training available, and also indicating the frequency with which school district staff must take or retake required trainings; (b) reviewing and revising, as warranted, internal policy regarding training attendance by staff employed by outside firms that manage districts' School Meal Programs; (c) providing school districts with focused and timely guidance with respect to federal and state regulations and policies; and (d) expanding the training opportunities the Office of School Nutrition makes available regionally and online.	Agree	a. April 2014 b. March 2014 c. Implemented d. August 2014
6	48	Ensure that the use of available federal funds is maximized to support oversight and administration of the School Meal Program by: (a) continuing to improve budget monitoring controls; (b) establishing an ongoing process for identifying potential uses of grants of reallocated funds, as well as Administrative Review and Training Type I and II grants, and for applying for such reallocated funds and grants as warranted; and (c) working with the Departments of Public Health and Environment and Human Services to reestablish the process previously in place for sharing excess funding among the three departments.	Agree	a. Implemented b. April 2014 c. April 2014

Overview of the School Meal Program and the Colorado Office of School Nutrition

Chapter 1

The School Lunch and Breakfast Programs (School Meal Program) are federally assisted meal programs operating in about 100,000 public and non-profit private schools and residential institutions across the country. The School Meal Program provides nutritionally balanced meals to school children in pre-kindergarten through the twelfth grade. The School Meal Program is administered at the national level by the Food and Nutrition Service within the U.S. Department of Agriculture (USDA). Schools that choose to take part in the School Meal Program receive cash subsidies and commodities from the USDA for each meal they serve. In return, the schools must serve meals that meet federal nutritional requirements, and they must offer free or reduced-price meals to eligible children. In Fiscal Year 2011, the most recent year for which data were available, the federal government spent approximately \$13 billion to serve meals to about 50 million children nationwide.

Colorado's Participation in the School Meal Program

Colorado's participation in the School Meal Program is based on a federal-state agency agreement entered into annually between the USDA and the Colorado Department of Education (Department). In consideration for the funds and commodities provided by the federal government, the Department agrees to comply with the federal statutes, regulations, and other forms of guidance related to the School Meal Program. States can impose more restrictive requirements with respect to school nutrition programs, but states cannot relax any of the federal requirements.

The Office of School Nutrition (OSN) within the Department is responsible for administering the School Meal Program in Colorado. The OSN enters into written agreements with the School Food Authority for those school districts wishing to participate in the School Meal Program. The School Food Authority is the governing body responsible for the administration of the School Meal Program in one or more schools within a school district. The agreements are for a term of one year, and can be renewed annually. In return for the OSN reimbursing the districts for meals, the districts agree to provide free and reduced-price meals to eligible children and to comply with all of the applicable federal and state requirements. These requirements include nutritional guidelines for meals, proper health and sanitation standards, record-keeping, and acceptance and use of USDA-provided food commodities.

There were 184 educational organizations that participated in the School Meal Program in Colorado during the 2012-2013 School Year. Of the 178 school districts in Colorado, 175 participated in the School Meal Program. The remaining three school districts (Aspen, Hinsdale, and Liberty) chose to not participate. In addition to the 175 school districts, there were nine other educational organizations that participate in the School Meal Program, including the Charter School Institute; three charter schools that have been approved as School Food Authorities; and five residential facilities, such as the Colorado School for the Deaf and Blind.

Program Eligibility

School districts determine program eligibility for their students based on federal requirements. There are several different ways by which schoolchildren may be determined eligible to receive a free or reduced-price meal. These include:

- **Application process.** Families of children may apply for the free or reduced-price meal programs; eligibility is based on family income. Children qualify for a free meal if their family income is below 130 percent of the federal poverty level, or \$29,965 for a family of four during the 2012-2013 School Year. Children qualify for a reduced-price meal if their family income is between 130 percent and 185 percent of the federal poverty level; 185 percent of the federal poverty level totaled \$42,643 for a family of four during the 2012-2013 School Year.
- **Direct certification.** If a child's household is already receiving benefits under certain federal assistance programs, the child will be directly certified as "categorically" eligible for free meals. This includes federal assistance programs such as the Supplemental Nutrition Assistance Program (SNAP), formerly referred to as the Food Stamp Program. Direct certification entails matching federal assistance program databases and school enrollment records so that children become automatically eligible without needing to submit proof of eligibility.
- **Categorical eligibility.** Federal law extends categorical eligibility to certain other classifications of children, such as children in foster care, children who have been institutionalized, runaway and migrant children, and homeless children. Proof of eligibility must be submitted for children in these classifications.

At the beginning of each school year, participating school districts must notify student households (except those qualifying for the programs through direct certification) of the School Meal Program and the opportunity to participate. The school districts must also provide information on state eligibility guidelines and instructions on how to apply for benefits. If a school district uses paper applications, the district must also provide the application form and instructions. If a school district uses a web-based system for applications, the district must provide instructions on how to access the system, as well as advise the households on how to obtain and submit a paper application.

The following table provides a breakdown of Colorado school children's eligibility status during the past five school years.

State of Colorado Eligibility Status of Children for the School Meal Program School Years 2008-2009 Through 2012-2013						
Eligibility Status	Number of Children Per School Year					Percentage Change 2008-2009 to 2012-2013
	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	
Free meal	231,232	258,899	279,275	288,568	297,167	29%
Reduced-price meal	58,172	60,529	57,168	60,362	61,732	6%
Not eligible for free or reduced-price meal	518,033	501,946	494,776	492,891	491,912	-5%
Total	807,437	821,374	831,219	841,821	850,811	5%

Source: Office of School Nutrition, Colorado Department of Education.

Program Participation

The USDA provides reimbursement funds for the School Meal Program to the Department, which in turn reimburses the school districts for meals served. School districts that participate in the School Meal Program receive reimbursement for each meal served, regardless of whether a child qualifies for a free or reduced-price meal. The reimbursement rate varies depending upon the level of a child's eligibility. The USDA also provides a small reimbursement for meals served to children who pay full price. The following table shows the USDA reimbursement rates for both the School Lunch and Breakfast Programs for the 2012-2013 School Year.

School Meal Program USDA Reimbursement Rates 2012-2013 School Year		
Level of Eligibility	Reimbursement Rate	
	Lunch	Breakfast
Free meal	\$2.86	\$1.55
Reduced-price meal ¹	\$2.46	\$1.25
Full-price meal	\$0.27	\$0.27

Source: U.S. Department of Agriculture website.
¹With reduced-price meals, the school district cannot charge a child more than \$0.40 for lunch or \$0.30 for breakfast.

The following table shows the number of lunch and breakfast meals served through the School Meal Program during the last five school years. As the table shows, the number of lunches served has decreased 4 percent since the 2008-2009 School Year, while the number of breakfasts served has increased 48 percent. The decline in lunches served is consistent with a nationwide trend following implementation of new federal nutritional requirements.

State of Colorado Number of Meals/Units Served School Years 2008-2009 Through 2012-2013						
Program	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	Percentage Change 2008-2009 to 2012-2013
Lunch	64,387,700	65,199,000	65,347,500	63,930,100	61,638,800	-4%
Breakfast	16,790,200	18,044,900	20,049,400	22,718,400	24,823,500	48%
Total	<u>81,177,900</u>	<u>83,243,900</u>	<u>85,396,900</u>	<u>86,648,500</u>	<u>86,462,300</u>	7%

Source: Office of School Nutrition, Colorado Department of Education.

Program Administration

The OSN is responsible for administering the School Meal Program. To administer the Program, the OSN is appropriated nine full-time equivalent (FTE) staff, including a director, program supervisor, fiscal and review manager, training coordinator, senior consultants, and support staff. The OSN's two primary responsibilities related to the School Meal Program include:

- **Monitoring.** The OSN is responsible for monitoring school districts' compliance with federal and state requirements. As part of its monitoring process, the OSN is required to approve all claims submitted by school districts for reimbursement for meals provided. Claims are processed through a web-based system every two weeks. In addition to the claims reviews, the OSN conducts compliance reviews of all school districts. To date, these reviews have been conducted every five years and have included two parts. The first part was the "Coordinated Review Effort," which looked at issues such as eligibility determination (either through applications based on income or direct certification), meal-counting and claims for reimbursement, civil rights requirements, and food vendor oversight. The second part was the "School Meals Initiative," which looked at school district compliance with federal nutritional requirements. Under new federal guidelines beginning for the 2013-2014 School Year, the OSN is required to conduct the compliance reviews every three years, and the reviews will include new requirements.
- **Technical Assistance and Training.** The OSN is also responsible for providing school districts with technical assistance on an ongoing basis and offering periodic formalized training related to the School Meal Program. On a daily

basis, the OSN provides technical assistance by responding to specific requests by individual school districts for help in interpreting and understanding complex federal requirements. The OSN also publishes informational material on its website, including manuals, memoranda, posters, and brochures on various aspects of the programs. Additionally, the OSN provides all school districts with a weekly update on the School Meal Program. Training is offered on a regular basis at state, regional, and local workshops, covering a variety of topics relating to program operations and nutrition requirements. Some seminars and workshops on nutrition are also provided to teachers, parents, student groups, and school food service professionals.

In addition to the School Lunch and Breakfast Programs, the OSN administers several other federal and state nutrition programs. The federal programs include the Special Milk Program, Summer Food Service Program, Fresh Fruit and Vegetable Program, and Afterschool Care Snack Program. The state programs include the Start Smart Nutrition Program, the Lunch Protection Act, and, beginning in the 2014-2015 School Year, the Breakfast After the Bell Nutrition Program.

Program Expenditures

The School Meal Program is funded with federal and state funds. The federal government reimburses approximately 98 percent of the Program's total expenditures. For Fiscal Year 2013, the federal reimbursement was \$170.8 million. The State provides matching funds through cash funds and general funds. The cash funds primarily come from the State Public School Fund. The following table shows the OSN's expenditures and FTE staff for Fiscal Years 2009 through 2013. As the table shows, the OSN's total expenditures have increased 33 percent over the past five years, with most of that increase coming from federal funds.

Office of School Nutrition Expenditures and FTE Fiscal Years 2009 Through 2013						
Type of Funds	2009	2010	2011	2012	2013	Percentage Change 2009-2013
Federal	\$127,288,200	\$138,802,600	\$147,323,700	\$158,315,800	\$170,870,700	34%
Cash ¹	3,169,700	3,212,400	3,160,900	3,155,900	3,182,700	0.4%
General	1,287,800	1,355,700	1,337,000	855,000	908,700	-29%
Total	\$131,745,700	\$143,370,700	\$151,821,600	\$162,326,700	\$174,962,100	33%
FTE	7.6	8.5	9.4	10.4	11.4	50%

Source: Financial Data Warehouse and Colorado Department of Education budget request documents.

¹ Includes State match and Child Nutrition Protection Program, which provides free lunches to children in pre-kindergarten through second grade who would otherwise be required to pay for a reduced-price lunch. The State match is from interest and income from moneys in the Public School Fund credited to the State Public School Fund pursuant to Section 22-41-102(3)(a), C.R.S. The funds for the Child Nutrition Protection Program are from the State Education Fund created in Section 17(4)(a) of Article IX of the State Constitution.

Upcoming Changes to Federal Requirements

The federal Healthy, Hunger-Free Kids Act of 2010 requires school nutrition standards to be strengthened. New standards went into effect for the 2012-2013 School Year regarding the availability of fruits, vegetables, and whole grains, and the reduction of sodium (in future years) in school meals. The new standards require, for example, that schools offer both fruits and vegetables to students every day; increase the amount of whole-grain-rich foods offered; only offer fat-free or low-fat milk; limit calories based on the age of children being served to ensure proper portion size; and increase the focus on reducing the amount of saturated fats, trans fats, added sugars, and sodium. Schools certified by the OSN to be in compliance with these standards can receive an additional \$0.06 in reimbursement for each lunch (not breakfast) served.

Additional standards went into effect for the 2013-2014 School Year. This includes changing the OSN's compliance review period for school districts to every three years, rather than five years. In addition, the school districts are required to take more extensive action to prepare in advance for these reviews. Federal requirements have also been tightened concerning the sale of all food items at schools, with national nutrition standards established for all food sold and served in schools at any time during the school day. To date, students have generally not been allowed to purchase food items from vending machines or student stores during meal times. The USDA broadened this rule, effective for the 2014-2015 School Year, by implementing tighter restrictions on the sale of food items in vending machines and school stores throughout the school day.

Audit Purpose, Scope, and Methodology

The Colorado Office of the State Auditor contracted with Cotton & Company LLP to conduct this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. 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 obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. We would like to thank the Department and the OSN for their assistance during the audit.

The primary objective of this audit was to assess the OSN's oversight and administration of the School Meal Program. We also assessed the OSN's effort in the areas of oversight of statewide compliance with federal and state requirements, training and technical assistance provided to school districts, and reallocation of administrative expense funds.

Specifically, the objectives of this audit were to:

- Determine whether the OSN has effective and efficient monitoring policies and procedures in place to ensure that school districts comply with federal and state eligibility and nutritional requirements related to the School Meal Program.
- Determine whether the OSN has sufficient policies, procedures, and authority for ensuring that deficiencies in school districts' compliance with federal and state requirements related to the School Meal Program, are corrected.
- Determine if the OSN delivers training and technical assistance in an effective and efficient manner to meet the reasonable needs of school districts throughout the state, with appropriate reliance on technology, and taking into account geographic dispersion and variances in capabilities among districts.
- Determine whether there are opportunities for the OSN to receive additional federal funds to help support the School Meal Program and whether the OSN has pursued them.

To accomplish the audit objectives, we:

- Reviewed relevant federal and state laws, rules, and regulations issued by the USDA, the State of Colorado, and the Department.
- Reviewed the OSN's records and documentation related to the areas of oversight of statewide compliance with federal and state requirements, training and technical assistance provided to school districts, and reallocation of administrative expense funds.
- Interviewed management and staff at the Department and the OSN to gain an understanding of the processes and controls utilized to administer the School Meal Program.
- Interviewed regional representatives at the USDA to understand their interpretations of the pending regulation changes.
- Reviewed best practices in other states related to school nutrition programs. These other states included Indiana, Kansas, Louisiana, Missouri, South Carolina, Tennessee, Utah, Wisconsin, and Wyoming.
- Reviewed the Coordinated Review Effort and School Meals Initiative Documentation maintained by the OSN to determine the extent and frequency of the reviews, as well as whether the OSN had correctly classified problems as deficiencies, appropriately taken fiscal actions, obtained a corrective action plan, and performed appropriate follow-up to ensure any violations were corrected. This included all 76 reviews completed by the OSN in the 2010-2011 and 2011-2012 School Years.

- Selected a non-statistical judgmental sample of 17 of the 178 school districts within the state and conducted site visits to analyze the eligibility determination process and vending machine and school store compliance, as well as to obtain feedback from the districts regarding monitoring and training provided by the OSN.
- Conducted surveys of all school districts within the state to obtain feedback from those stakeholders on the OSN's administration of the School Meal Program. Topics covered within the survey included new regulation guidance, direct certification, technology access, vending machine and school store sales, and training and technical assistance.
- Reviewed OSN training materials, including training modules provided by the OSN to the school districts, the training calendar, and training modes conducted by the OSN.

We designed our samples to help provide sufficient, appropriate evidence for the purpose of evaluating the OSN's administration of the School Meal Program. When we selected our samples, we did not intend the results of our testing to be projected to the entire population. Rather, the samples were selected to provide sufficient coverage of those areas that were significant to the objectives of this audit.

We planned our audit work to assess the effectiveness of those internal controls that were significant to our audit objectives. Our conclusions on the effectiveness of those controls, as well as specific details about the audit work supporting our findings, conclusions, and recommendations, are described in the audit findings and recommendations.

The information in this report was accurate as of the date of our testing, which took place between the start of fieldwork (June 2013) and the report date (January 2014). Facts may have changed since we performed our testing, and we therefore cannot verify that the conditions described in this report are still current.

Office of School Nutrition Operations

Chapter 2

The Office of School Nutrition (the OSN) administers the federally assisted School Meal Program in Colorado, which provides nutritionally balanced meals to school children in pre-kindergarten through the twelfth grade. The OSN is responsible for monitoring school districts' compliance with federal and state requirements, as well as providing school districts with technical assistance on an ongoing basis and offering periodic formalized training related to the School Meal Program. Should school districts fail to comply with School Meal Program requirements, federal dollars may be at risk, and children may be deprived of nutritious meals.

Under the leadership of a new director, and with the hiring of new staff, the OSN has implemented many changes to its processes during the past year or two to help improve the School Meal Program. For example, it has instituted a more robust methodology for its compliance reviews. It has also made great efforts to prepare for and implement the complex provisions of the new federal Healthy, Hunger-Free Kids Act of 2010. However, we identified additional areas during the audit where further improvements can be made. Specifically, the OSN should further strengthen its monitoring processes to ensure that school districts comply with School Meal Program eligibility and nutritional requirements, as well as with program requirements related to operating balances, paid lunch equity, and non-program revenues. In addition, the OSN should improve its controls over the direct certification process and ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value. The OSN should also increase and enhance its delivery to school districts of training and technical assistance related to the School Meal Program. Finally, the OSN should ensure that it is maximizing its use of available federal funds to support oversight and administration of the School Meal Program. Our findings are discussed in more detail in the remainder of this chapter.

Compliance Monitoring – Eligibility and Nutrition Requirements

The compliance review process was developed in consultation with the U.S. Department of Agriculture (the USDA) and state nutrition agencies as a management tool to improve regulatory compliance and program accountability in the School Meal Program. The OSN is required to conduct compliance reviews of all school districts that participate in the School Meal Program to ensure that the districts comply with eligibility and nutrition requirements. The USDA provides

guidance and instructions for the compliance review process so that all school districts¹ nationwide are evaluated in the same manner. School districts must submit corrective action plans when violations of federal regulations are found. When violations are not corrected, the OSN is authorized to take fiscal actions against school districts, such as imposing penalties and withholding reimbursement payments.

What audit work was performed, and what was the purpose?

We reviewed federal and state laws, rules, regulations, and policies related to the OSN's responsibilities for monitoring school district compliance with School Meal Program requirements. We also interviewed OSN staff involved in the compliance review process to understand the process.

We reviewed OSN documentation for the 39 compliance reviews completed in the 2010-2011 School Year and the 37 compliance reviews completed in the 2011-2012 School Year. For these reviews, we analyzed trends in the types of violations identified by the OSN and in the actions taken by the OSN to ensure that violations were corrected.

In addition, we selected 8 of the 39 school districts that received compliance reviews in the 2010-2011 School Year and 8 of the 37 school districts that received compliance reviews in the 2011-2012 School Year. For each of these 16 school districts, we reviewed a sample of 10 initial applications from families applying to the school district for free or reduced-price meal benefits to determine whether the applications had been processed in accordance with federal laws and regulations by the school district. In total, we reviewed 160 initial applications.

We also reviewed 62 verified applications at the 16 school districts in our sample to assess the documentation maintained by the school districts as part of their eligibility verification process, and to determine whether there were errors in the process. For each of the 16 school districts, we reviewed 10 verified applications; if a district had fewer than 10 verified applications, we reviewed all of its verified applications. In both the application and verification reviews, we compared any errors identified during our review to the errors identified by the OSN in its compliance reviews to determine if the OSN identified the same errors.

We reviewed the new federal Administrative Review process, which replaced the compliance review process beginning in the 2013-2014 School Year, to understand what changes will be occurring in the monitoring process.

We reviewed the compliance monitoring practices of seven other states' school nutrition programs to identify any best practices related to monitoring. These states included Louisiana, Missouri, Tennessee, and Wisconsin, as their overall student

¹ The term "school district" is used here instead of "School Food Authority" for convenience. Individual charter schools and residential facilities can be school food authorities and participate in the School Meal Program despite not being school districts.

enrollment was similar to Colorado's. We also reviewed the practices of Kansas, Utah, and Wyoming, as these states are in the same geographic area as Colorado.

The purpose of the audit work was to determine whether the OSN has an effective monitoring process in place to ensure that school districts comply with federal and state eligibility and nutritional requirements related to the School Meal Program.

How was the audit work measured?

Monitoring:

Federal regulations (7 CFR 210.18) have required the OSN to conduct compliance reviews of school districts at least once every five years. Beginning with the 2013-2014 School Year, the OSN must conduct compliance reviews every three years. These reviews include two primary components:

- Critical areas of review:**

The first critical area of review is to ensure that all free, reduced-priced, and paid meals claimed for reimbursement are served only to children who are eligible for benefits under the School Meal Program, and that these meals are counted, recorded, consolidated, and reported through a system that consistently yields correct claims. [7 CFR 210.18(a)(2)(i)]

The second critical area of review is to ensure that meals claimed for reimbursement consist of the required food items or components. [7 CFR 210.18(a)(2)(ii)]

To test and verify critical areas of review, school districts are required to maintain a variety of documentation, including accurate production records. Production records are a district's source record of the meal components that were eligible for reimbursement, and they also support the district's claims for the number of eligible meals served.

- General areas of review:**

The general areas of review include all other major program requirements. Federal regulation [7 CFR 210.18(h)] sets forth an inclusionary, but not exclusive, list of general areas that should be reviewed to ensure school districts' compliance. General areas of review include the free and reduced-price process, civil rights compliance, school district self-monitoring responsibilities, and food safety and sanitation.

Enforcement:

According to federal regulations [7 CFR 210.18(k)(2)], when the OSN identifies issues of non-compliance in either the critical or general areas of review, the school district must submit a corrective action plan to the OSN no later than 30 days after the initial review.

Federal regulations note that state agencies, such as the OSN, are responsible for ensuring School Meal Program integrity at the school-district level. [7 CFR 210.19(c)] The OSN *must* take fiscal action for violations of critical review areas and *may* take fiscal action for violations in the general areas of review. The OSN may disregard the fiscal penalty if it does not exceed \$600. [7 CFR 210.19(d)] In addition, the OSN may impose additional requirements for school districts beyond those outlined in the regulations, as long as they are not inconsistent with the regulations. [7 CFR 210.19(e)]

Follow-Up Reviews:

The USDA Coordinated Review Efforts Procedures Manual requires states to perform follow-up reviews of all large school districts (those with 40,000 or more students) and at least 25 percent of the remaining (small) school districts where the state agency, such as the OSN, has identified serious problems in complying with the critical areas of the compliance review. The first follow-up reviews must be completed no later than December 31 of the school year following the initial review. However, states are encouraged to conduct the first follow-up review in the same school year as the initial review. [7 CFR 210.18(c)(4)]

Federal regulations [7 CFR 210.18(i)(5)(i)] provide that if a state determines during a follow-up review that corrective actions have not been satisfactorily completed in accordance with the documented corrective action, the state shall: (1) require the school district to resolve the problems and to submit documented corrective action to the State agency; (2) take fiscal action for critical-area violations; and (3) withhold Program payments until such time as a follow-up review, requested by the school district, indicates the problem has been corrected.

What did the audit work find?

Overall, we found that the OSN did not have an effective monitoring process in place to ensure that school districts comply with School Meal Program requirements and that violations are corrected timely. We identified the following issues:

- **OSN compliance reviews did not identify all errors that could result in a critical-area violation.** Specifically, in our review of 160 initial applications, we found that 5 applications (i.e., 3 percent of our sample) contained errors that the OSN did not identify during its compliance reviews.² Errors included

² As applications can be accepted by a school district throughout the year, we could not assure that we reviewed the exact same applications that the OSN reviewed.

incorrect income calculations, incorrect determinations of eligibility, and incomplete applications. These errors were in four different school districts. Specifically:

- One initial application showed that the school district had incorrectly calculated income. This incorrect calculation did not impact the student's eligibility determination.
- Two initial applications were reviewed by two school districts outside the USDA-required 10-day window. The schools districts were not held accountable by the OSN for this lack of timely review.
- Two initial applications were accepted and processed by the school district despite being incomplete. The students were inappropriately determined to be eligible for school meal benefits based on the incomplete applications. Assuming these students subsequently obtained free breakfast and lunch meals for the entire school year, the school district could have received federal reimbursement up to a maximum of \$672 per student.³

In addition, we found that the OSN did not identify a systemic issue for 1 of the 16 school districts reviewed (i.e., 6 percent of our sample). The district was routinely encouraging families with multiple children in school to submit a separate application for each child. This practice is contrary to USDA guidance, which provides that families with multiple children should submit one application for the family, rather than separate applications for each child.

With regard to the verification process, in our review of 62 verified applications, 5 applications (i.e., 8 percent of our sample) contained errors that the OSN did not identify during its compliance reviews. Errors included incorrect income calculations, incorrect determinations of eligibility, incomplete data for verification, and incomplete applications. These errors were in four different school districts. Specifically:

- Four verified applications showed that the school district had incorrectly calculated income during the verification process. As a result, one student was incorrectly verified as eligible for school meal benefits when they should have been ineligible. In the other three cases, the incorrect calculation did not impact the students' eligibility determination. Assuming the student whose application was incorrectly verified subsequently obtained free breakfast and lunch meals for the entire school year, the school district could have received federal reimbursement up to a maximum of \$672.³

³ Calculated based on a 160-day school year, using the USDA 2010-2011 School Year reimbursement rates of \$1.48 for free breakfast and \$2.72 for free lunch.

- One verified application was not signed by the applicant or dated by the school district. As a result, the student was inappropriately determined to be eligible for school meal benefits; incomplete applications are supposed to be rejected. Assuming the student whose application was incorrectly verified subsequently obtained free breakfast and lunch meals for the entire school year, the school district could have received federal reimbursement up to a maximum of \$672.³
- **The OSN did not conduct compliance reviews and apply fiscal sanctions in a consistent manner across school districts.** Specifically, we found that the OSN's approach to testing and applying fiscal sanctions during compliance reviews varied by school district. For example:
 - In one small school district, OSN staff found numerous violations, including missing meal production records at one school, that fell into the critical areas of a compliance review. Due to the severity of the violations identified, OSN staff decided to expand the compliance review to include all other schools in the district and to go back to the beginning of the school year; this expansion was allowable. Ultimately, the OSN assessed the school district almost \$215,000 in penalties, at least part of which were due to the missing records. In another school district, the OSN discovered menu planning errors at one elementary school. This also fell into the critical area of a compliance review, comparable to missing meal production records. All five elementary schools within the school district operated from the same flawed menu, but the OSN only took fiscal action for the one elementary school, and only for the current month. The OSN did not expand its review to the other elementary schools in the district, nor did its review go back to the beginning of the school year.
 - In one school district, OSN staff found that the schools had incorrectly approved applications and did not have sufficient documentation to support their approval. The OSN did not take fiscal action against this school district. OSN staff found similar violations at another school district during the same school year. However, the OSN did assess this school district approximately \$300 in penalties for the violations.
 - In one school district, OSN reviewers noted that the staff members did not understand what constituted a reimbursable breakfast meal under USDA regulations and were counting incomplete meals as reimbursable. This was a violation in a critical area of review. The OSN reviewer's comments appeared to indicate this was likely to have been a problem for some time in the district. However, the reviewer took no fiscal action for the violation.

- **The OSN did not conduct regular follow-up reviews in school districts where violations were found, beyond those minimally required by the USDA.** In total, the OSN identified violations at 76 school districts during the 2010-2011 and 2011-2012 School Years; all of the districts had to prepare a corrective action plan, but only 10 districts had serious violations in critical areas of review. Based upon USDA guidance, the OSN was only required to complete follow-up reviews on a subset of the 10 school districts, to include any large districts and 25 percent of all small districts. The OSN conducted only the required number of follow-up reviews in the 2010-2011 and 2011-2012 School Years; i.e., three reviews. This meant that the OSN did not conduct a follow-up review in the remaining districts, even though critical- and general-area violations were noted during the compliance reviews. Without additional follow-up reviews, the OSN did not have an adequate process for ensuring that school districts actually implemented their corrective action plans.
- **The OSN did not take fiscal action or withhold funding for violations other than as minimally required by the USDA.** As a matter of policy, the OSN did not routinely take fiscal action for school districts with total penalties of less than \$600. Although this practice is allowed by federal regulations, it may not have provided an incentive for school districts to correct smaller problems before they grew into more serious problems. In our survey of other state agencies, of the seven state agency directors who responded to our survey question, five had an agency policy of disregarding fiscal action if the total amount did not exceed \$600. The sixth state agency had a policy of disregarding fiscal action only if the total amount was less than \$100. The seventh state agency had a policy of disregarding fiscal action if the total amount was less than \$600, but imposed fiscal action for any amount if the school district had repeats of the same violation or was taking too long to implement corrective action.

What caused the problem to occur?

The issues identified occurred because of the following:

- **Lack of comprehensive policies and procedures on conducting compliance reviews.** Although the OSN had some policies and procedures related to conducting compliance reviews, these policies and procedures did not address key components of the process. For example, the policies and procedures did not lay out guidelines for when testing should be expanded to all schools in a district, or to prior school years, when violations were found. Instead, it was up to the discretion of the OSN staff member assigned to the review to decide if testing should be expanded. OSN policies and procedures also did not require staff to document why they decided whether or not to expand testing. In addition, the policies and procedures did not include requirements imposing fiscal sanctions, beyond those minimally outlined by the USDA; how much

should be assessed for certain types of violations; and when the penalties should be withheld from school district reimbursements. Finally, the OSN did not have policies and procedures to address when follow-up reviews should occur, beyond those minimally required by the USDA.

- **The OSN staff did not consistently use standard forms for calculating fiscal sanctions.** Although the OSN had a standard form that staff were required to use to calculate fiscal sanctions, staff did not consistently use this form. Our review of the documentation provided for the 14 school districts where fiscal sanctions were assessed during the 2010-2011 and 2011-2012 School Years found that staff used the form in only five instances.
- **Vacancies in key staff positions and staff capabilities.** The OSN's full staffing level during the 2010-2011 and 2011-2012 School Years was nine positions. For the 2013-2014 School Year, the OSN's staffing was increased to 12. OSN staff performing on-site compliance reviews in school districts may have lacked the time or the training to thoroughly complete the reviews. In addition, the OSN experienced vacancies in several staff positions. Two of the OSN's positions in both the 2010-2011 and 2012-2013 School Years were vacant for at least 6 months, with one position vacant for 11 months. Additionally, the director position was vacant for 5 months during the 2009-2010 School Year.

Finally, during the early part of the audit period, OSN's staff may not have had the right mix of experience and skill sets required to fully meet the OSN's monitoring responsibilities. For example, based upon the salary ranges offered for the positions, the OSN found it difficult to attract candidates that provided the necessary experience to fill the positions.

Why does the problem matter?

The potential effects of insufficient or inconsistent compliance reviews include the following:

- Unidentified errors in student meal application and verification processes could result in a loss of school meal benefits to students or the awarding of benefits to students who do not qualify.
- Not applying consistent expansion procedures when initial problems are found could lead to the OSN missing systemic problems in some school districts. As some of the issues identified in the documentation related to menu planning, this means that some students may have been served meals that did not meet USDA standards, which may have gone uncorrected by the school district.
- School districts lacking a clear understanding of how fiscal penalties should be assessed and the OSN assessing only the minimally required penalties could

decrease the districts' motivation to correct deficiencies. By providing documentation to each school district, the school district representatives will better understand the current actual and future potential financial penalties for being out of compliance with USDA regulations.

Further, without additional follow up, the OSN lacks an effective mechanism for determining if an issue is actually resolved or will occur again. Additionally, more frequent follow-up reviews would result in a greater likelihood of school districts being in compliance.

The lack of an effective compliance monitoring and enforcement program may also leave school districts unprepared for the stricter compliance standards under the Healthy, Hunger-Free Kids Act of 2010. That legislation will require the OSN to take fiscal action and withhold claims payments for violations that are not corrected by the time of a follow-up review, regardless of the minimal amount of the penalty. These violations can be in the general or critical areas of review.

Finally, as shown in the following table for Colorado and eight comparable states, Colorado is just above the average for the ratio of state agency staff to school districts. This highlights the fact that having the positions fully staffed and properly trained is critical for the OSN to be able to meet its responsibilities.

State Comparison of the Number of School Districts Compared with State Nutrition Program Staff			
State	Number of School Districts ¹	Number of Staff ²	Ratio of Staff to School Districts
South Carolina	149	24	16.11%
Alabama	189	27	14.02%
Utah	111	13	11.71%
Tennessee	201	19	9.45%
Colorado	184	12	6.52%
Kansas	415	24	5.78%
Minnesota	703	31	4.41%
Wisconsin	846	34	4.02%
Missouri	799	18	2.25%
Average	400	22	5.62%

Source: National Center for Education Statistics for student enrollment, Individual State Agency Websites, and discussions with each State Agency for staffing numbers.

¹ In this table, School Districts refers to School Food Authorities, which are responsible for child nutrition programs for school districts and other educational organizations.

² As of Fall 2013.

Recommendation No. 1:

The Office of School Nutrition (the OSN) should strengthen its monitoring processes to ensure that school districts comply with federal eligibility and nutritional requirements related to the School Meal Program by:

- a. Establishing and implementing policies and procedures related to compliance reviews that:
 - Provide consistency regarding expanded testing and the application of fiscal actions. This may include developing a flowchart or decision tree to assist staff in identifying when expansion is necessary.
 - Require that OSN staff use a consistent form to calculate and communicate to the district the fiscal action deduction being assessed. The OSN should require that its reviewers calculate fiscal action using the same form even when it ultimately decides that the fiscal action is below its threshold (currently \$600).

- Require a larger number of follow-up reviews in order for the OSN to be able to determine that school districts have corrective action plans in place and are implementing those plans.
 - Provide districts with the specific, updated policy on when fiscal penalties will be assessed and the amount of the penalties. This policy should be consistent in assessing fiscal penalties and include provisions to escalate penalties as appropriate, and adopt a lower or no threshold for requiring fiscal action.
- b. Training staff on the policies and procedures once implemented.
 - c. Working with the Colorado Department of Education to assess overall capabilities and resources to ensure that the OSN is able to fulfill its monitoring responsibilities related to the School Meal Program.

Office of School Nutrition Response:

- a. Agree. Implementation date: April 2014

The Office of School Nutrition (OSN) has enacted numerous changes in recent years and continues to implement improvements in the oversight and administration of the School Meal Program within the state. For example, the OSN is in the process of developing and implementing a Standard Operating Procedure for the new Administrative Review Process. The OSN is working with the regional USDA office to obtain guidance and assistance in developing these internal policies. This procedure will address expansion of testing, application of fiscal actions, and performance of follow-up reviews. The OSN will balance the provision of training and education for districts, the requirement and evaluation of districts' corrective action plans, and the assessment of fiscal penalties to achieve compliance with federal and state requirements. Further, the OSN's child nutrition claims system will incorporate USDA developed forms to ensure consistency across all reviews. The OSN will communicate expectations of the Administrative Review process to school districts.

- b. Agree. Implementation date: August 2014

The OSN will create tools to support the new Administrative Review Process and will train staff members on the new Standard Operating Procedure and associated tools. Further, an Administrative Review manager will continue to review a sample of completed Administrative Reviews to ensure accuracy and consistency as well as to identify follow-up training needs.

- c. Agree. Implementation date: April 2014

The OSN will evaluate the resource and personnel needs necessary for the oversight and administration of the School Meal Program including the new Administrative Review Process. Under the new Administrative Review Process, the OSN is required to complete 66 percent more reviews than under the prior Coordinated Review Effort. In addition, based upon the first several months using the new review process, more time is required to meet the required elements of the review. Therefore, it is likely that the OSN will work with the Department to request additional personnel.

Compliance Monitoring – Financial

Federal regulations require that the School Meal Program not produce a profit that would result in the buildup of excess cash balances. Each school district that participates in the Program is required to maintain net cash resources (operating balance) in an amount that does not exceed three months' average expenditures. To the extent that operating balances exceed this amount, a district may be required to reduce the price children are charged for lunches, improve food quality, or take other action designed to improve the food service program.

The OSN is required to monitor the net cash resources of the food service program in all of the school districts to ensure compliance with federal regulations. In addition to the compliance reviews conducted every five years, the OSN annually collects financial information from each school district to determine whether the district is compliant with operating balance, paid lunch equity, and non-program revenue requirements. School districts are required to upload financial information to the Department through an automated system. The system produces a Child Nutrition Programs Operating Report (*CDE5*) that includes financial data related to school districts' child nutrition program revenues and expenditures. The OSN uses the *CDE5* report and school district audited financial statements to assess school district compliance with federal and state school nutrition regulations.

What audit work was performed, and what was the purpose?

We reviewed federal and state laws, rules, regulations, and policies related to the OSN's responsibilities for monitoring school districts' compliance with three USDA financial requirements: operating balance, paid lunch equity, and non-program revenues. We also interviewed key OSN staff who are responsible for monitoring school district compliance with these requirements, and Department staff who assist with the *CDE5* reports from which OSN staff gathered key data to assess compliance.

We reviewed documentation maintained by the OSN for monitoring school districts' compliance with the three annual requirements, in order to test the accuracy of the documentation. We reviewed additional financial information for a sample of 17 school districts and compared the monitoring reports used by the OSN with the districts' audited financial statements. We also interviewed school district representatives for the sampled school districts regarding the process for completing financial data and submitting it to the OSN, in order to demonstrate the districts' compliance with program requirements.

The purpose of the audit work was to determine whether the OSN has effective monitoring processes in place to ensure school districts' compliance with three annual USDA requirements related to operating balances, paid lunch equity, and non-program revenues.

How was the audit work measured?

The OSN is required to ensure that school districts comply with all provisions of School Meal Program regulations. The OSN can use various tools to ensure compliance, including audits, administrative reviews, technical assistance, training, guidance materials, or other means. [7 CFR 210.19(a)(4)] The OSN must provide an adequate number of consultative, technical, and managerial personnel to administer programs and monitor the performance of school districts in complying with all School Meal Program requirements. [7 CFR 210.19(a)]

The OSN must annually review school district compliance with the following three financial requirements:

- **Operating balance:** A school district cannot carry an operating balance greater than three months' average expenditures in its school food service fund. [7 CFR 210.14(b)] This requirement is meant to ensure that school districts are spending their funds only on school meal operations and are not using federal funds for other purposes. [USDA Policy Memo SP 34-2013]
- **Paid lunch equity:** A school district must charge a price for full-pay student meals that is high enough that federal reimbursement funds intended to support the provision of free and reduced-price meals are not used to subsidize full-pay meals. Alternatively, a school district can use other non-federal funds to subsidize low-priced full-pay student meals, such as the district's general funds. [7 CFR 210.14, USDA Policy Memo SP22-2012]
- **Non-program revenues:** The ratio of non-program revenues to total revenues must be equal to or greater than the ratio of non-program food costs to total food costs. Non-program revenues come from the sale of a la carte items, adult meals, vending machine items, or catering. They can also result from transfers of funds from the district's general fund to the child nutrition fund. [7 CFR 210.14(f)(2)]

What did the audit work find?

Overall we found that the OSN did not have an effective monitoring process in place to ensure that school districts comply with School Meal Program financial requirements related to operating balances, paid lunch equity, and non-program revenues. Specifically, we found the following:

- **Operating balances.** The OSN did not properly identify all school districts that were out of compliance with the operating balance requirement. For example, in its review of the Department's *CDE5* report data for the 20 school districts with the highest food service program costs in the 2011-2012 School Year, the OSN identified 2 districts as being out of compliance with the operating balance requirement. However, we identified an additional five districts that were out of compliance based on the *CDE5* report data. Of the 13 school districts we visited that were not included among the 20 school districts with the highest food service program costs, the OSN had found 2 to be out of compliance. Our review of the *CDE5* report data identified an additional 2 districts that were out of compliance.
- **Paid lunch equity.** The OSN did not accurately determine whether all school districts were in compliance with the paid lunch equity requirement. For example, for the 17 school districts in our sample, the OSN collected 2012-2013 School Year data and determined that 7 of those districts had not collected sufficient funds to cover the cost of paid lunches. As a result, the districts needed to either raise meal prices or make a general fund transfer to be in compliance with paid lunch equity requirements. Four of the seven districts replied to the OSN that they had not made a general fund transfer in the previous school year (the 2011-2012 School Year), indicating they would need to either raise lunch prices or make a general fund transfer in the current year (the 2012-2013 School Year). However, two of the four districts incorrectly reported to the OSN and in fact had made general fund transfers in the previous year (the 2011-2012 School Year). The OSN failed to verify district-provided data regarding the transfers from 2011-2012 School Year and therefore did not identify the districts' reporting errors. The OSN erroneously advised at least one of the two districts to raise its meal prices, which it did.

Additionally, the OSN did not verify district compliance with paid lunch equity requirements in a timely manner. At times, the OSN waited up to a year to obtain data to confirm that a school district that was out of compliance had taken necessary steps to comply. While this practice is allowable under federal requirements, obtaining more timely data may help to mitigate the issue sooner.

- **Non-program revenue.** The OSN did not always accurately determine whether school districts were in compliance with the non-program revenue requirement. For example, the OSN used one school district's self-reported

data on the non-program revenue worksheet for the 2011-2012 School Year to determine that the district was out of compliance by \$793. Given the small dollar amount, the OSN notified the district, but did not require district action. However, both the Department's *CDE5* report and the district's audited financial statements conflicted with the self-reported data. In our interview with district staff, we determined that the district was not reporting all non-program revenues and food costs. The district did not include a la carte sales to children in the non-program revenues and food costs in its self-reported data. In addition, the district provided all employees with free meals as a benefit. The food costs associated with this practice were not included in the self-reported non-program food costs. Based on available data, we estimate that the school district was further out of compliance than the OSN had calculated, by as much as \$12,000.

The OSN found another district to be in compliance with non-program revenue requirements for the 2011-2012 School Year based on self-reported data provided by the district. However, the district's self-reported revenue did not match figures on either the Department's *CDE5* report or the district's audited financial statements. Our review of OSN documentation also showed that the district erroneously reported non-program revenues that included revenues from student payments for reimbursable meals. Further, the Department's *CDE5* report showed that the district had no non-program revenues, but staff in interviews noted that the district generated non-program revenues from the sale of adult meals and the sale of a la carte items such as milk, drinks, pretzels, and nachos to students. We therefore estimate that the school district was out of compliance with non-program revenue requirements by as much as \$23,000.

What caused the problem to occur?

The issues identified occurred because of the following:

- **The OSN did not establish and communicate a standard timeframe for calculating three-month operating balances.** When reviewing school districts for compliance with this requirement, OSN staff assumed a nine-month "operating year," but this was not communicated to the districts. USDA guidance defines both a "school year" and a "fiscal year" to be twelve months, but does not define an "operating year." At least one of the 17 school districts in our sample used a twelve-month operating year for its local calculations of operating balance. By using a different number of months to calculate the three-month average expenditures, the OSN and the school districts arrived at different conclusions regarding compliance with USDA operating balance requirements. For example, using nine months instead of twelve months as the operating year increased the amount a school district could have carried as an operating balance by 33 percent.

- **The OSN did not have accurate monitoring reports and did not reconcile reports to audited financial statements.** The Department's *CDE5* report used by the OSN to monitor school district compliance with annual USDA requirements did not contain complete and accurate information. Specifically, the Department's *CDE5* report included an internal calculation of indirect costs, rather than the actual indirect cost figure from districts' audited financial statements, which caused OSN's operating balance calculations to be incorrect for some school districts. In addition, the Department's *CDE5* report did not accurately represent the financial information uploaded by school districts. The OSN also did not consistently reconcile the *CDE5* report with school districts' audited financial statements to identify discrepancies, which caused the OSN's paid lunch equity and non-program revenue calculations to be incorrect for some school districts.
- **The OSN had a requirement to review paid lunch equity data annually and chose not to review it more frequently.** The OSN did not realize the value in reviewing data more frequently to assist in clearing or identifying compliance issues.
- **The OSN did not provide sufficient training and guidance to school districts.** District staff responsible for submitting paid lunch equity and non-program revenue data noted during our interviews that they did not understand the purpose of the required reports or the correct definitions for the figures they provided in them. When the OSN found a district to be out of compliance in these areas, its efforts to communicate the problem were generally limited to informal emails sent to district staff within the child nutrition program. However, these individuals may not have understood all of the financial components of the reporting requirements and may not have communicated them to the district superintendent and other district financial staff.

Why does the problem matter?

Because the OSN used incorrect financial data when monitoring school district compliance with USDA requirements related to operating balances, there is a risk that the OSN did not identify all of the districts that were out of compliance with the requirements. As a result, some districts may have been keeping more funds than allowed as operating balances. These excess funds could have been used to reduce meal prices, improve the quality of meals, or make other improvements to the School Meal Program.

By using incorrect paid lunch equity data, the OSN may have advised districts to take actions that were unnecessary. In one case, the OSN advised a district to raise its meal prices even though it did not need to do so, resulting in higher prices for students. Not advising districts in a timely manner about the need to raise meal prices (if needed) likely resulted in some districts continuing to subsidize paid student meals with funds intended to support meals for needy students. By the

same token, by using incorrect non-program revenue data, the OSN may not have identified some school districts that were out of compliance and that were using federal reimbursement funds for unintended purposes, such as subsidizing adult meals with funds intended to support student meals.

Recommendation No. 2:

The Office of School Nutrition should improve the effectiveness of its monitoring processes to ensure that school districts comply with School Meal Program requirements relating to operating balances, paid lunch equity, and non-program revenues by:

- a. Defining and communicating to school districts a standard timeframe for the number of months in an operating year, for purposes of calculating three month operating balances.
- b. Working with the Department of Education to ensure that the data it uses to monitor school district compliance are accurate for purposes of calculating operating balances, paid lunch equity, and non-program revenue. At a minimum, the Department's *CDE5* reports should be adjusted to reflect data in school districts' audited financial statements, including actual indirect costs.
- c. Performing timely verification of school district action when there is initial non-compliance with paid lunch equity requirements.
- d. Providing sufficient training and guidance to school district staff, including food service program staff, other financial staff, and district superintendents, on paid lunch equity and non-program revenue calculations so the districts are better able to report accurate data and understand the implications of noncompliance with these requirements.

Office of School Nutrition Response:

- a. Agree. Implementation date: April 2014

The Office of School Nutrition (OSN) will formally define and communicate the standard timeframe of an operating year for calculation of the three-month operating balance requirement.

- b. Agree. Implementation date: Implemented

The OSN has worked with the Department of Education to update the *CDE5* report to provide accurate and meaningful financial data related to districts' school meal programs. In addition, the underlying financial information for the *CDE5* report is compared to the districts' audited financial statements to confirm the accuracy of data in this report.

c. Agree. Implementation date: Implemented

The OSN has updated its monitoring processes related to the financial aspects of school nutrition programs, including paid lunch equity. Specifically, the OSN reviews meal prices during the annual renewal process and during the annual paid lunch equity submission process. The OSN also performs follow-up with any district found to be out of compliance to ensure the district made the indicated adjustments, such as a price increase or funds transfer.

d. Agree. Implementation date: Implemented and Ongoing

The OSN has developed guidance and provided a number of communications and resource tools on paid lunch equity and non-program revenues calculations and will continue to update and refine these as appropriate. Furthermore, the OSN performs has performed individualized technical assistance through one-on-one coaching sessions to many districts. Finally, the OSN is ensuring that appropriate district personnel, including both food service program staff and financial staff, are involved in ongoing correspondence related to the financial compliance aspects of the food service program.

Direct Certification

Children in households that receive benefits under the Supplemental Nutrition Assistance Program (SNAP) are categorically eligible for free school meals. SNAP, which provides assistance to qualifying families through its food assistance program (formerly referred to as the Food Stamp Program), is a USDA program that is administered at the state level in Colorado by the Department of Human Services (DHS). The DHS is responsible for certifying families as eligible for SNAP benefits. All children who live in households that receive SNAP benefits are allowed to bypass the standard School Meal Program application process and be “directly certified” for free school meals. With direct certification, families are not required to fill out paper applications for the school to process in order to determine eligibility. Instead, the school district matches SNAP data with student data and automatically enrolls SNAP participants for free school meals.

To meet direct certification requirements, the OSN has requested that each district match SNAP data with school district enrollment records. The OSN entered into an agreement with the DHS to make the SNAP data available directly to school districts. The OSN also verifies that school districts are directly certifying eligible students in accordance with School Meal Program requirements.

What audit work was performed, and what was the purpose?

We reviewed federal and state regulations and OSN policies and procedures related to the direct certification process. We interviewed OSN personnel to obtain an understanding of the processes in place to provide school districts with access to SNAP data, as well as of the challenges the OSN faces in meeting federally mandated direct certification benchmarks. We also interviewed representatives of the DHS to determine what data it provides the OSN to enable the OSN to analyze trends or issues with respect to direct certification. We reviewed the OSN's process for verifying that each school district has completed its direct certification process. Finally, we interviewed school district representatives regarding the direct certification process, inquiring about any difficulties they have had with the process and any steps they have taken to resolve these difficulties.

We also reviewed a copy of the USDA Nutrition Assistance Program Report (No. CN-12-DC, issued October 2012) to identify the results of Colorado's performance in meeting direct certification benchmarks. In addition, we reviewed the OSN's continuous improvement plan (which the USDA had required the OSN to develop because the USDA determined that Colorado was not meeting federal benchmarks) and followed up with the OSN to determine whether it was meeting the performance measurement goals contained within the plan.

The purpose of the audit work was to determine if the OSN has effective controls and systems in place to ensure school district compliance with federal requirements concerning direct certification of children who are categorically eligible for free school meals.

How was the audit work measured?

Federal law (42 U.S.C. 1758) requires that children in households that receive benefits under SNAP become automatically or "categorically" eligible for free school meals. States and school districts are required to provide for direct certification of eligible children by matching SNAP data with school enrollment records. Once certified, the school district must notify the parents or guardians in writing of their children's eligibility for free meals.

According to federal regulations [7 CFR 245.6 (b)(3)], beginning in the 2011-2012 School Year, the process of direct certification must be completed at least three times per year. The USDA Eligibility Manual for School Meals (August 2012) states that school authorities must obtain the most current certification information available from those responsible for the SNAP program.

The Healthy, Hunger-Free Kids Act of 2010 [Public Law 111-296, Section 101(b)] mandates that states meet certain direct certification performance targets. Starting in the 2011-2012 School Year, states must achieve an 80 percent direct

certification rate, followed by a 90 percent rate in the 2012-2013 School Year and a 95 percent rate in the 2013-2014 School Year and beyond. Thus, for the 2011-2012 School Year, the state must directly certify at least 80 percent of the school-age children in the SNAP database who are eligible to receive free meals in school. The Act requires states that do not meet the direct certification performance rate benchmarks to develop continuous improvement plans to improve their compliance rates over a multi-year period. There are no federally mandated sanctions in the event that a state does not meet the federal benchmarks.

What did the audit work find?

Overall, we found that the OSN does not have effective controls and systems in place to ensure that Colorado meets federal direct certification performance targets. Although the OSN verifies that each school district completes the direct certification process at least three times per year, the OSN does not have a mechanism or process for assessing whether the State as a whole is meeting direct certification targets. Instead, the OSN relies on information provided by the USDA regarding Colorado's direct certification rate. According to the USDA, Colorado had a 68 percent direct certification rate for the 2011-2012 School Year, which was well below the 80 percent performance target mandated by federal law. However, the OSN did not have its own data to substantiate this figure. Without this information, the OSN could not provide information to show whether only certain school districts were below the target rates, or whether the problem was widespread across all school districts.

What caused the problem to occur?

The problem identified occurred because of the following:

- **Lack of monitoring processes.** The OSN had not established a comprehensive process for verifying school district compliance with direct certification requirements. The OSN verified only that school districts have gone through the direct certification process. However, the OSN did not review the results of the direct certification process to determine if school districts are certifying all eligible children. The OSN's lack of verification is due, at least in part; to the fact that OSN staff did not believe they had access to SNAP data due to privacy issues. However, OSN staff could not provide a definitive reason for the perceived privacy issues, nor were they able to provide a timeframe for when privacy issues were first raised as a concern. According to the DHS, OSN staff could have had access to the data if they had requested it.
- **Limitations in the data interface system.** According to the OSN, the system being used to match SNAP and school enrollment data has limited data-matching capabilities and essentially requires perfect matches between the comparison fields of name, address, birthdate, and Social Security Number. For example, school district representatives noted that the existing system

would fail to find a match if the fields being compared differed by as little as an extra space. As a result, district staff must manually compare the SNAP data to their enrollment data to determine if children should be directly certified. The OSN's continuous improvement plan, which it was required to submit when Colorado did not meet the federal benchmarks in the 2011-2012 School Year, included the acquisition of a new direct certification system. This new system is expected to allow for stronger data-matching and greater user intervention and analysis. The OSN had expected to implement the new system and have it online and available for use by July 2013; however, due to delays in funding and vendor issues, as of September 12, 2013, it was not yet live. The subsequent steps of the OSN's continuous improvement plan are predicated on first implementing this new system. In addition to acquiring the new system, the OSN indicated in its continuous improvement plan that it intended to contract with an external firm to complete a one-time gap analysis that is expected to find issues related to underlying data consistency throughout the direct certification process, as well as the implementation of the data interface system. The SNAP database is continually updated statewide, but the planned gap analysis will be performed by an external contractor on a one-time basis. A one-time gap analysis may identify current systemic problems, but this will not protect the OSN's data interface system from new database discrepancies as they arise. To address this concern, ongoing gap analyses are needed.

Timing of the Department of Human Services' data updates. The OSN only received updates to the SNAP database from the DHS four times per school year, as requested by the OSN: in June, August, November, and February. Uploads typically occurred in the middle of those months. School districts had leeway to perform their first round of SNAP direct certifications from mid-July through the end of August, with OSN deadlines of August 17, 2012, for school districts that began school before August 20, 2012, and August 31, 2012, for school districts that began school after August 20, 2012. Given the timing of the SNAP updates, school districts could have been comparing their enrollment database with SNAP data that were up to two months old. For example, a school district could have used the June SNAP data for comparisons made at the end of July, which would make the data about two months old. According to the DHS Services, as of June 2013, the average number of new SNAP applications each month was about 11,600. This means that the number of children eligible for SNAP, and therefore eligible for free meals, changes on a monthly basis. By not having more frequent uploads of SNAP data, especially in July and August when school years are starting, the school districts did not have the most recent data available.

- **Outdated written agreement.** The OSN had not updated its written agreement with the DHS regarding the transfer of SNAP data since 2005. The 2005 agreement lacked sufficient detail to clearly identify when data updates would be provided, or the parties' authority or responsibility over the data. It

appears that all modifications to the SNAP data transfer process have been made informally, without modification to the written agreement.

Why does the problem matter?

Currently, Colorado is not meeting the USDA minimum requirement for direct certification percentages. As a result, eligible children may not have received their free meal benefits, or they may have experienced delays in receiving benefits. The original intent of direct certification was to streamline the process of determining some children's eligibility for free meal benefits. USDA research has shown a statistically significant positive relationship between direct certification and student participation at the state level, meaning that eligible students who are directly certified more often obtain free meals than eligible students who, for whatever reason, are not directly certified. Without direct certification, parents would be required to complete unnecessary applications when their children are already categorically eligible for free meals. Some parents may not complete the application forms in a timely manner, or may choose not to complete the application at all, which increases the risk that eligibility will be delayed or students will not be identified as eligible.

Additionally, school districts have been required to spend time and effort trying to find matches, largely through a time-consuming manual comparison of printouts from the SNAP data and partial matches from the district enrollment database. An improved matching interface and analysis of the root causes of the lack of current matches would increase the efficiency and effectiveness of the direct certification process for school districts.

Recommendation No. 3:

The Office of School Nutrition (the OSN) should improve its controls over the direct certification process to ensure that Colorado school districts meet federal requirements by:

- a. Implementing a comprehensive monitoring process to verify that school districts are directly certifying all eligible children for the School Meal Program. This should include working with the Department of Human Services to ensure that OSN staff have access to Supplemental Nutrition Assistance Program (SNAP) data.
- b. Continuing to implement the new data interface system. Once implemented, the OSN should seek feedback from school districts regarding their experiences with any increases in the number of matches and any decreases in the amount of manual processing required for unmatched records.

- c. Conducting the planned one-time gap analysis of the direct certification process, including performing a root-cause analysis for the gaps or issues identified. The OSN should also consider options for conducting further gap analyses on an ongoing basis, as needed.
- d. Coordinating with the DHS to receive more frequent and timely SNAP updates, particularly in the months of July and August.
- e. Working with the DHS to update the written agreement regarding the exchange of SNAP data. The agreement should include clear provisions detailing each party's rights and responsibilities with respect to the data, as well as a schedule for when data should be provided.

Office of School Nutrition Response:

- a. Agree. Implementation date: Implemented

The Office of School Nutrition (OSN) has worked to enhance the existing direct certification processes and monitoring efforts. For example, the OSN implemented a new Direct Certification Agreement for the 2013-2014 School Year to improve districts' understanding of and compliance with direct certification procedures and requirements. Also, the OSN has provided technical assistance to districts on the direct certification process. Additionally, the OSN has worked with an external contractor and the Colorado Department of Human Services to provide OSN personnel access to the SNAP data files via a shared, secure system. The OSN will continue to refine direct certification monitoring efforts.

- b. Agree. Implementation date: October 2014

The OSN is scheduled to implement the new data interface system in July 2014 to facilitate the comparison of school district student enrollment data with SNAP eligibility data. Once completed, the OSN will solicit feedback from school districts and will compare new match rates to those from the old system to identify additional refinements that may be appropriate. Furthermore, the OSN plans to perform additional technical assistance to targeted districts not meeting their direct certification benchmarks.

- c. Agree. Implementation date: June 2015

Once all school districts have completed their first direct certification upload in the new system, the OSN will perform a one-time gap analysis of the direct certification process for comparing student enrollment and SNAP eligibility. The OSN will use the information from this analysis, coupled with data gathered during targeted technical assistance provided to school

districts, to determine an appropriate on-going solution, including the potential need to perform periodic gap analyses in the future.

- d. Agree. Implementation date: April 2014

In June 2013, the Office met with the Department of Human Services to coordinate more frequent updates of the SNAP data. The Department is currently working to provide OSN with monthly updates to ensure school districts have up-to-date information, which is especially important in the summer months so that students can be directly certified for free school meals prior to the new school year.

- e. Agree. Implementation date: May 2014

The OSN has worked with the Department of Human Services to update the agreement for access to the SNAP data to reflect the revised process and the responsibilities of each agency. A new agreement was drafted in December 2013 and is currently under review.

Competitive Foods

School districts participating in the School Meal Program must adhere to federal regulations regarding competitive foods and foods of minimal nutritional value. Competitive foods are any foods sold in a school's food service area (where meals are served and/or consumed) during meal periods, regardless of nutritional value. Federal regulations prohibit the sale of competitive foods in the food service area during meal periods unless all the revenues from the sale of the competitive foods accrue to the child nutrition fund of the school district, which is used to support the School Meal Program, or to a school or student organization approved by the school. Federal regulations do not allow the sale of foods of minimal nutritional value at all during meal periods. These foods are typically found in vending machines and school stores, and include items such as candy and other snacks.

What audit work was performed, and what was the purpose?

We examined the 15 compliance reviews that the OSN conducted during the 2010-2011 and 2011-2012 School Years that included an assessment of school district compliance with requirements regarding competitive foods and foods with minimal nutritional value. We evaluated what action, if any, the OSN had taken to remedy issues of non-compliance. We also interviewed a sample of 17 school food representatives regarding their districts' compliance with requirements regarding competitive foods and foods with minimal nutritional value. For the five districts indicating that they likely had violations in one or both of these areas at the time of their OSN compliance review, we followed up to determine whether these issues had been identified by the OSN and what steps had been taken to address these

violations. Finally, we reviewed the 71 responses received from a survey conducted of all school food representatives in the state asking whether they believe that their districts have violations regarding competitive foods or foods with minimal nutritional value.

The purpose of the audit work was to determine if the OSN has adequate controls in place to ensure that school districts are in compliance with federal and state requirements concerning competitive foods and foods of minimal nutritional value.

How was the audit work measured?

Federal regulations [7 CFR 210.11] require that states and school districts prohibit the sale of specifically designated foods of minimal nutritional value where such sales take place in food service areas during meal periods. This includes items such as popsicles, candy, and other snacks. In addition, federal regulations prohibit the sale of any foods in competition with the food offered under the School Meal Program (i.e., “competitive foods”) in food service areas during meal periods. Competitive foods can include any type of food or beverage where the income from such sales does not accrue to the benefit of the School Meal Program or to a school or student organization approved by the school.

The USDA Administrative Review Guidance Manual (March 2013) encourages the State agency [the OSN] to withhold program payments in whole or in part for repeated or egregious violations that are not corrected. This provision applies to violations of requirements on competitive foods and foods of minimal nutritional value.

Federal regulations [7 CFR 210.19(a)(4)] require state agency “the OSN” staff to monitor the performance of school districts in complying with all School Meal Program requirements, including those related to competitive foods and foods of minimal nutritional value. The state agency can ensure compliance through audits, administrative reviews, and other means.

Federal regulations [7 CFR 210.19(e)] allow for state agencies, such as the OSN, to impose additional restrictions on school districts, including restrictions regarding the sale of and income from all foods sold at any time or any place in schools participating in the School Meal Program, as long as the requirements are not inconsistent with federal regulations.

Colorado Competitive Foodservice Policy (2202-R-203.00) provides that competitive foods may not be sold anywhere on the school campus during meal periods or during one half-hour prior to and one half-hour following meal periods. As an exception to this policy, a school district may allow the sale of competitive beverages through a vending machine at high schools.

What did the audit work find?

Overall, we found that the OSN does not have effective controls in place to ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value. Specifically, we found that the OSN has not consistently taken enforcement action against school districts when violations are found, or followed up to ensure that violations are corrected.

Of the 15 compliance reviews that the OSN conducted during the 2010-2011 and 2011-2012 School Years that identified violations of either federal or state requirements with regard to competitive foods or foods of minimal nutritional value, we found that the OSN did not assess fiscal penalties against or withhold program reimbursements for any of the school districts. For some of the districts, the OSN's compliance reviews indicated that the districts had been out of compliance in one or both of these areas in previous years as well. Additionally, there is no evidence that the OSN informed any of the districts that continued noncompliance with program requirements could result in fiscal action being taken. For example, in the compliance review conducted for one of the districts during the 2010-2011 School Year, the OSN noted that the competitive foods violations were known to have been occurring since 2008, or for at least three years. However, the OSN did not assess any penalties or withhold program reimbursements from the district for these violations. Further, the OSN did not conduct a follow-up review of the district during the 2011-2012 School Year to determine if the violations had been corrected.

In our interviews with school food representatives from 17 school districts, 5 districts stated that at the time of their compliance reviews, they likely had violations of requirements regarding competitive foods and foods with minimal nutritional value, but the OSN had not taken any enforcement action against them and did not conduct a follow-up review to determine if the violations had been corrected. For example, one district indicated that the OSN had found the district to be in violation of state requirements related to foods of minimal nutritional value; the district had been selling diet sodas and 20 percent cranberry juice to junior high students, which was prohibited. The OSN documented the violation, and in its corrective action plan, the district noted that the noncompliant items were removed as of February 2011. However, the district informed us that the items were not actually removed until the end of the school year, when its contract with the vendor expired. The OSN did not complete a follow-up review within the same school year to verify compliance. Another district also stated that it had waited for its vendor contract to expire before discontinuing its vending machines, despite being notified by the OSN that it was in violation of School Meal Program requirements. Further, two districts indicated that they had been operating school stores in violation of program requirements at the time of the OSN's last review, but the reviews did not note the violation. In addition, in our survey of 71 school

districts, 27 districts (38 percent of our sample) indicated that they have vending machines and/or school stores that are likely to be in competition with school meals, and thus are likely violating program requirements.

What caused the problem to occur?

The OSN has not established and implemented policies and procedures to direct its staff on how violations of program requirements regarding competitive food and foods with minimal nutritional value should be handled. There are no policies or procedures addressing when fiscal action should be taken for violations, how to determine the dollar amount and type of fiscal action taken (e.g., assess a penalty or withhold reimbursement), or when follow-up reviews should occur after violations are identified. For the time period covered by our audit (the 2010-2011 and 2011-2012 School Years), the USDA did not require that states take fiscal action against school districts that failed to comply with School Meal Program requirements related to competitive foods and foods of minimal nutritional value. Instead, the USDA “encouraged” states to withhold program payments for repeated or egregious violations that were not corrected, and authorized the states to impose additional restrictions on the sale of all foods at schools participating in the School Meal Program. However, the OSN did not establish standard policies or procedures to implement the USDA’s directive. Further, although federal regulations effective for the 2013-2014 School Year require the OSN to withhold program reimbursements for uncorrected violations as determined through a follow-up review, the regulations do not specify how much should be withheld. There is therefore still a need for the OSN to develop policies and procedures to implement federal enforcement requirements. As compliance reviews are conducted by different OSN staff members, the lack of standard policies and procedures can result in significant variation in how the OSN treats each district for similar types of violations.

In addition, the OSN does not separately notify school district superintendents when it finds violations related to competitive foods and foods of minimal nutritional value; it only notifies school nutrition program staff. However, the decision to operate vending machines and school stores outside of the School Meal Program is typically made by district superintendents. The district superintendents should therefore also be made aware of violations and the repercussions of non-compliance with program requirements.

Why does the problem matter?

Because the OSN has not routinely taken authorized enforcement action against school districts that violate requirements regarding competitive foods and foods with minimal nutritional value, there may be a perception among some school districts that these regulations are not important and that there are no repercussions for not following them. Further, because there has been a lack of follow-up reviews and enforcement action taken with respect to violations, school districts

had insufficient incentive to take the appropriate action to come into compliance. For example, a 2010 USDA management evaluation of the OSN identified one example where the OSN found a district to be in violation of requirements related to competitive foods and foods of minimal nutritional value during the 2004-2005 to 2009-2010 School Years. The OSN did not take fiscal action against the district until the 2009-2010 School Year, after four consecutive reviews noting the violations. Finally, in June 2010, the OSN began withholding the district's program reimbursement payments. The district came into compliance within four months of the OSN withholding its reimbursement payments.

Further, because the OSN has not taken authorized enforcement action against school districts that violated program requirements, school districts may have a more difficult time coming into compliance with the USDA's new rule regarding foods sold anywhere on campus during the school day, which is further-reaching than the current federal regulation and gives the USDA authority over all foods sold on school campuses during school hours. This rule will be effective for the 2014-2015 School Year.

In addition to violating federal regulations, when school districts do not comply with requirements related to competitive foods and foods of minimal nutritional value, students in those school districts may have access to inappropriate foods from vending machines and school stores, potentially contributing to an unhealthy diet. Also, school districts potentially lost child nutrition funds, as students spent money in vending machines and school stores that might otherwise have been spent on meals that would have been reimbursable under the School Meal Program. Reimbursed funds could have been used to provide higher quality meals for students, compensate child nutrition staff, renovate school cafeterias, or any other permissible uses of child nutrition funds.

Recommendation No. 4:

The Office of School Nutrition (the OSN) should ensure that school districts comply with state and federal requirements related to competitive foods and foods of minimal nutritional value by establishing and implementing policies and procedures to enhance the effectiveness of its monitoring efforts and enforcement of these requirements. The policies and procedures should specifically address how violations of program requirements should be handled, including when and what type of fiscal action should be taken for violations, how the dollar amount of the fiscal action should be determined, when follow-up reviews should occur after violations are identified, and how school district superintendents should be notified of any violations identified. Once the policies and procedures are implemented, the OSN should communicate this information to the school districts, including district superintendents.

Office of School Nutrition Response:

Agree. Implementation date: August 2014

The Office of School Nutrition (OSN) is in the process of developing and implementing internal policies and procedures for monitoring competitive foods requirements within school districts. This will address violations of program requirements including appropriate application of fiscal actions, performance of follow-up reviews, and notification to superintendents of any violations identified. The OSN will communicate expectations for competitive foods monitoring to districts.

School District Training and Technical Assistance

The OSN is responsible for providing School Meal Program training and technical assistance to school districts in Colorado. The OSN provides training and technical assistance primarily in two ways:

- **On-site informal training and technical assistance.** OSN staff provide informal training and technical assistance to school district staff during on-site compliance reviews. When deficiencies are noted during compliance reviews, the OSN works with district staff to explain the violation and how it should be corrected.
- **In-person and online training courses.** OSN staff provide training sessions to inform school districts of regulatory changes, review annual requirements, and prepare new food service directors for program responsibilities.

What audit work was performed, and what was the purpose?

We interviewed OSN staff responsible for providing training and technical assistance to school districts to obtain an understanding of the current training offerings, use of technical assistance visits, and planned training improvements. We reviewed OSN documentation related to the trainings that have been offered and the participants who attended.

We reviewed the 39 compliance reviews completed by the OSN during the 2010-2011 School Year and the 37 compliance reviews completed during the 2011-2012 School Year to determine if OSN staff provided technical assistance to school districts during the review process. We reviewed the OSN's 2013 Free and

Reduced Lunch Program Online training package to assess its completeness and usefulness to school district employees.

We conducted in-person interviews of school food representatives from 17 school districts and performed online surveys of all Colorado school districts to obtain information about OSN training sessions, including what trainings they typically attend, their opinion as to the quality of those trainings, what additional trainings and/or technical assistance they would like for the OSN to provide, and whether they had relevant training options outside of what is provided by the OSN.

Finally, we obtained information from the state nutrition agencies in Indiana, Kansas, Louisiana, Missouri, South Carolina, Tennessee, Utah, Wisconsin, and Wyoming regarding how they provide training and technical assistance to their school districts.

The purpose of the audit work was to evaluate the completeness and appropriateness of the training and technical assistance provided by the OSN to school districts.

How was the audit work measured?

Federal regulations require that the OSN ensure compliance with School Meal Program requirements “through audits, administrative reviews, technical assistance, training guidance materials or by other means.” [7 CFR 210.19(a)(4)] Federal regulations also require the OSN and school districts to provide technical assistance and training for schools so they can meet the nutritional requirements of the School Meal Program. [7 CFR 210.10(g)]

The OSN developed an Administrator’s Reference Manual to explain the compliance review process to school districts, which included the potential for technical assistance before, during, and after on-site reviews. With regard to training, the Manual noted that:

- School districts must have a representative complete training on free and reduced-price meals in order for their program to be renewed each year.
- A school district representative must have completed training before the district can use the OSN system for direct certification.
- A school district new to the School Meal Program must complete OSN training.
- The OSN will offer annual verification training in mid-September; this training is mandatory for school districts that had verification errors the previous year and optional for others.

Other states have implemented models for regional training. Two states (Kansas and Indiana) have a regional service center structure in place and provide training to school districts through that structure. In a third state (Tennessee), we found that the state agency has nine regional offices. Each regional office had one state agency employee that was responsible for providing training and technical assistance within the region. These employees also conducted reviews for the school districts in their region.

What did the audit work find?

Overall, we found that although the OSN has made positive changes to its training and technical assistance in recent years, further improvements are needed. Specifically, we found:

- **It is not clear if trainings are required or optional or who should attend.** We found that the OSN has not provided school districts with clear guidance outlining which training courses are “required” versus “optional,” or who should attend each course. While the OSN website provides a list of courses, it does not provide a list of courses appropriate for each job category, or indicate which courses each individual is expected to complete. In response to our survey, 17 of the 69 school district representatives responding (25 percent of the respondents) indicated that they were not sure or did not believe that any OSN trainings were required.

In addition, some school districts contract with an outside firm to manage their school food operations. The OSN did not make it clear if or when contracted employees could attend training on behalf of the school district. According to one school district, they were informed by the OSN that its contracted firm employees could not attend some training sessions related to the School Meal Program as the official representative of the district, even though the contracted firm acts as the School Food Authority for the district. This meant that the district would have had to send a district staff person in addition to the contracted staff, thus incurring twice the cost.

- **Online training tools do not ensure adequate review of course materials by school district staff.** We found that the online training tools currently provided by the OSN do not ensure that participants adequately review the course material prior to taking the course quiz. Each online training program consists of training materials that participants are supposed to review before taking a quiz over the material. However, the OSN’s system allows participants to bypass the training materials and take the quiz immediately. The system then provides a printout of the correct responses for all questions. The participant could then take the quiz a second time and fill in the correct responses. This deficiency in the system could limit the value of the training.

- **Technical assistance is not always timely or sufficiently comprehensive.** We found that the OSN does not always provide school districts with timely and sufficiently comprehensive communication and guidance for interpreting and implementing new federal regulations. For example, the USDA issued a press release in June 2013 related to new federal snack rules. The OSN included a link on its website to the press release the same day it was issued and indicated that it would provide additional information on the new rules and their applicability to Colorado school districts “in the coming months.” The OSN did not provide additional information to the school districts until September 12, 2013.
- **School district staff indicate that there are not enough regional and online training opportunities.** We found that although the OSN has increased the number of regional and online trainings offered in recent years, school district staff indicate that more are needed. The OSN provided online training in the areas of free and reduced-price meal eligibility verification and other areas. It also offered some regional training on various topics. However, trainings such as the annual director’s conference and new director’s training were only offered in a central location. According to our survey of school districts throughout the state, 6 of 28 respondents wanted more regional training, 14 wanted more online training, and 5 wanted a mix of online and in-person training opportunities, to accommodate staff from rural and smaller school districts and to minimize training costs. As identified in the survey, the OSN was the most important, and often the only, source for training for school district staff. Geographically, some school districts are up to eight hours’ drive from Denver, which makes attending even short training sessions in Denver a multi-day endeavor. Also, some school districts have not been able to afford the cost of training expenses, and therefore employees personally bore the cost of travel to Denver. Nearly all of the school districts responding to our survey (69 out of 70) noted that they have sufficient technology to attend webinars and online training.

What caused the problem to occur?

Problems in training delivery were caused by the fact that the OSN focused the majority of its training and technical assistance efforts for the past 2 years on the requirements mandated by the federal Healthy, Hunger-Free Kids Act of 2010. That left an insufficient number of staff to simultaneously update and conduct all the other training school districts might need, including the following: providing additional online and regional training opportunities; providing timely state-specific guidance as new USDA guidance was released; seeking feedback from school districts related to training; and updating the online webinars. In addition, the OSN did not sufficiently test online training modules to ensure that the test-takers were required to complete an adequate review of course materials. Over the last year, the OSN has made significant efforts to improve its training resources and program. However, several staff members, including the person responsible for most of the OSN training, are relatively new to the agency.

The OSN may also not have weighed the burden placed on school districts that are forced to travel great distances to attend in-person training sessions against the implementation cost of regional or online possibilities that would minimize school district representatives' travel time and maximize the reach of OSN's training staff.

In addition, the OSN lacked clear policies about which training sessions are required versus optional for school districts. Although the OSN's Administrator's Reference Manual notes that some trainings are required, these notations are spread over several hundred pages of material and are not concisely outlined in one place. Furthermore, the OSN did not have policies as to which school district staff should attend which sessions, as well as which specific trainings outside management firm representatives could attend as the official representative of the school district, if any.

Why does the problem matter?

If there are deficiencies in the delivery of training and technical assistance, the OSN cannot ensure that school district employees are operating the School Meal Program in a competent manner that is compliant with federal and state requirements. The consequences of non-compliance can include incorrect eligibility determinations, the provision of food that does not meet nutritional guidelines, and inaccurate accounting for public funds, among other things.

School district staff members were unsure of what training was mandatory rather than optional and may have missed valuable information. As a result, some school district staff failed to attend required training. The OSN's lack of clarity and lack of options regarding training for school districts that use an outside management firm has also resulted in some school districts incurring additional cost for training sessions.

In addition, without online training with proper controls, school district staff are able to provide evidence of course completion without having adequately reviewed the material. This could lead to continued errors or noncompliance in School Meal Program management, if staff lack the knowledge to perform their job duties because they are not receiving appropriate training material or information needed to do so.

Finally, employees of smaller school districts often serve in multiple capacities and consequently have less time to devote to training focused solely on student nutrition, so they may skip valuable training sessions that require extensive travel. Some school district employees incur their own travel costs for non-local training; in some cases, districts may not require employees to attend training because the district cannot afford to pay for the travel costs from its funds.

Recommendation No. 5:

The Office of School Nutrition should increase and enhance its delivery of training and technical assistance to school districts related to the School Meal Program by:

- a. Regularly disseminating to school districts a detailed outline of all training available, noting whether training is required or optional for each position within the school district's School Meal Program, and also indicating the frequency with which school district staff must take or retake required trainings.
- b. Reviewing and revising, as warranted, its internal policy regarding training attendance by staff employed by outside firms that manage districts' School Meal Programs. Finalized policies should be communicated to school district staff.
- c. Providing school districts with focused and timely guidance, to include a specific emphasis on which new U.S. Department of Agriculture regulations/memos apply to them, how the new guidance should be interpreted and applied, and how the new guidance should be applied in comparison to existing or forthcoming Colorado regulations in the same area.
- d. Expanding the training opportunities it makes available regionally and online, which has proven successful in other states. All online training should have sufficient controls to ensure that the participants properly review the course materials before taking the course exam.

Office of School Nutrition Response:

- a. Agree. Implementation date: April 2014

The Office of School Nutrition (OSN) is in the process of obtaining a training registration module within the child nutrition claims system. This module will describe all training offerings, list attendance requirements, allow district staff to register for classes, and allow the OSN to track attendance of school district staff.

- b. Agree. Implementation date: March 2014

The OSN will review its policy on required trainings and attendance by non-district personnel. Historically, it has been the OSN's policy that a district staff member attends mandatory trainings given that districts are ultimately responsible for compliance with school nutrition program laws, rules, and regulations. As such, the OSN felt it important that district personnel are aware of the compliance requirements, even in districts using a food service management company. The OSN will ensure the decision related to this policy is communicated to school districts. Regardless of the finalized policy, the OSN will increase efforts to ensure that personnel from food service management companies are aware of and feel welcome to attend OSN trainings.

- c. Agree. Implementation date: Implemented

The OSN began issuing weekly updates to a variety of school nutrition personnel within districts in May 2012 to ensure food service program staff members are provided timely information on news, events, and guidance on federal and state requirements in a predictable, consistent manner. In addition, the OSN provides targeted trainings and communications on specific topics as needed. The OSN recently developed a Standard Operating Procedure on implementation of new USDA regulations and memorandum to ensure future communications are specific on how the regulations apply to the districts and provide details on where additional information is located.

- d. Agree. Implementation date: August 2014

The OSN is in the process of expanding its training offerings, including school year-specific training for the various program areas. The OSN will also be hosting additional webinars in the future to further facilitate timely, cost-effective dissemination of information to districts. Additionally, the OSN will review the online training offerings and associated deployment options. Currently, the OSN generally allows participants to self-pace their learning through online courses and to review quiz results to supplement

and reinforce the learning process. Further, questions and answers on quizzes are randomized to ensure that participants must know the proper answer and are not able to use a prior quiz as an answer key. The OSN will reevaluate these online training options to ensure appropriate controls are in place to facilitate the learning process.

Federal Funding

There are multiple sources of federal funds available to the OSN to support administrative functions for the School Meal Program. The USDA allocates annual State Administrative Expense funds for the support of child nutrition programs based on prior-year budgets. The OSN must return unused funds; however, it may retain up to 20 percent of the original allocation, to be carried over for spending in the following year. Alternatively, the OSN may transfer unused funds to other eligible agencies within the state, to include the Department of Public Health and Environment, and the DHS. Funds returned to the USDA are then reallocated to other agencies that submit an application. Agencies interested in receiving reallocation funds submit a request for a one-time-only activity that is essential to the administration of the program. The USDA ranks requests based on needs identified and the amount of funding available. Reallocation funds cannot be awarded to agencies that have not expended their original State Administrative Expense allocation or that do not expect to fully utilize their carryover funds. In addition, the OSN is eligible to apply for funding through the Child Nutrition and Women, Infants, and Children Reauthorization Act of 2004. This Act provides funding for state nutrition agencies to conduct additional compliance reviews of school districts at high risk of administrative error and to provide training and technical assistance at school districts that have operational errors or where errors are likely to arise.

In addition to the regular State Administrative Expense funding, and independent of the reallocation process, the USDA made additional administrative funding available to the OSN to support its implementation of the Healthy, Hunger-Free Kids Act of 2010. The USDA provided this funding in recognition of the significant programmatic changes that school districts must make to comply with the new act. These additional funds are issued on a federal fiscal year basis, with a two-year period to obligate funds. Agencies are required to return unused funds to the USDA. In Federal Fiscal Year 2012, the OSN received this additional administrative funding of approximately \$509,400 and spent the full amount. The OSN has also been awarded additional funding of approximately \$387,200 for Federal Fiscal Year 2013 and approximately \$129,100 for Federal Fiscal Year 2014.

What audit work was performed, and what was the purpose?

We reviewed federal requirements related to State Administrative Expense funding and how it can be used in relation to OSN operations. We interviewed key personnel and obtained financial data from the OSN, the Department of Public Health and Environment, and the DHS to support the amount of state administrative funds awarded and expended, carried over from one year to the next, shared between agencies, and returned to the USDA during Federal Fiscal Years 2009 through 2013. We also interviewed USDA representatives to obtain an understanding of the State Administrative Expense Fund award process, including how the USDA handles a state with multiple agencies eligible for awards, and to obtain documentation to support the amount of these funds awarded to Colorado during Federal Fiscal Years 2009 through 2013. We obtained from USDA representatives documentation detailing the reallocation process and past awards.

We discussed with the OSN the reasons that the agency did not spend all of its State Administrative Expense funding each year during our review period and reviewed the OSN's newly developed budget-to-actual spreadsheets created to track revenue and expenditure data beginning with Fiscal Year 2012.

The purpose of the audit work was to determine whether the OSN has made full use of available federal funds, as well as whether there are opportunities for the OSN to receive additional federal funds to help support the School Meal Program, and whether the OSN has pursued such opportunities.

How was the audit work measured?

Federal regulations specify that State Administrative Expense funds be used for the program(s) for which they are allocated. State Administrative Expense funds allocated to the OSN can be used to pay for salaries, benefits, travel expenses, office equipment, and staff development. They can also be used to monitor and train school districts' food service personnel. A state agency receiving these funds can carry over up to 20 percent of funds allocated, to be used in the following year. Any unspent funds not carried over must be returned to the USDA. However, the OSN has the option to transfer any unused funds to other state agencies eligible to receive the funds; this would include agencies that provide Child and Adult Care Food Programs or assist in the administration of the Food Distribution Program in participating schools and institutions. In Colorado, the Departments of Education, Public Health and Environment, and Human Services are eligible to receive State Administrative Expense funds. [7 CFR 235.6]

Federal regulations also allow state agencies eligible to receive State Administrative Expense funds to apply for reallocated funds if they expend all of their original appropriation. To receive reallocated funds, the OSN must submit an application for a one-time-only activity that is considered essential to the

administration of the School Meal Program. The USDA then ranks requests and funds them as reallocated funds become available. [7 CFR 235.5(d)]

In addition, the Child Nutrition and Women, Infants, and Children Reauthorization Act of 2004 provides funding for states under two additional grant programs. Administrative Review and Training Type I grants provide \$3,500 for each additional administrative review of school districts that are at a high risk for administrative error. Type II grants provide funding for training and technical assistance, focusing on assisting state nutrition agencies in providing training for districts and schools that have operational errors or in which errors are likely to arise. Type II grants include both planning grants of up to \$75,000 for a one-year period and implementation grants of up to \$1.5 million for up to a three-year period. Agencies receiving the grants are required to focus on applications, certification, verification, meal-counting, and meal-claiming procedures. Training may include systems and web-based training. [Public Law 111-80]

What did the audit work find?

Overall, we found that the OSN does not make full use of the federal funds that are available to support its operations. Specifically, we found that during Federal Fiscal Years 2009 through 2012, the OSN returned almost \$700,000 in State Administrative Expense funds to the USDA from its original allocations. In addition, during this time, the OSN transferred only \$100,000 of its unspent funds to another state agency, the DHS.

The following table shows the OSN's original allocations, amounts spent, amounts carried over to subsequent years, amounts transferred to other state agencies, and amounts returned to the USDA during Federal Fiscal Years 2009 through 2012.

State of Colorado
Federal Funding Awarded to the Office of School Nutrition
Federal Fiscal Years 2009 Through 2012

	Amounts Awarded				
	2009	2010	2011	2012	Total
Received as allocation for the federal fiscal year	\$1,048,400	\$1,149,600	\$1,273,200	\$1,414,900	\$4,886,100
Less: Expenditures incurred over two fiscal years ¹	(849,200)	(768,200)	(1,087,100)	(1,401,500)	(4,106,000)
Less: Amount transferred to another agency (CDHS)	<u>(100,000)</u>	<u>(0)</u>	<u>(0)</u>	<u>(0)</u>	<u>(100,000)</u>
Amount returned to the USDA (amount exceeding the 20 percent of the allocation that the agency was allowed to retain as carryover)	<u>\$99,200</u>	<u>\$381,400</u>	<u>\$186,100</u>	<u>\$13,400</u>	<u>\$680,100</u>
Additional information: Amount claimed as carryover funding after the initial fiscal year and spent in the following fiscal year	\$209,700	\$229,900	\$254,600	\$160,500	\$854,700

Source: U.S. Department of Agriculture, Food & Nutrition Services, and the Office of School Nutrition.
¹ The USDA allowed agencies two years to obligate funds to implement the federal Healthy Hunger-Free Kids Act of 2010.

Because the OSN did not fully expend its original and carry-over allocations in any of the years during the audit period, it was not eligible to apply for reallocated funds in order to make program improvements.

We also found that during Federal Fiscal Years 2009 through 2011, the OSN did not apply for either a Type I or Type II grant authorized under the federal Child Nutrition and Women, Infants, and Children Reauthorization Act of 2004.

What caused the problem to occur?

During the audit period (Federal Fiscal Years 2009 through 2012), the OSN did not devote sufficient resources to budgeting and internal monitoring of the status of funds to ensure that the entire allocation of funds would be spent each year. Specifically, the OSN did not monitor project spending on a frequent basis, track actual spending at the detail level, or communicate this information to management in a timely manner to facilitate appropriate decision-making. The OSN hired a Fiscal & Review Manager in January 2013, and this position was assigned responsibility for monitoring available funds and investigating opportunities for additional funds.

Staffing vacancies within the OSN also contributed to the problem. In each of the Federal Fiscal Years from 2010 through 2012, the OSN experienced staff vacancies, a state furlough, and salary freeze that led to approximately \$175,000 in State Administrative Expense funds left unspent.

Further, the OSN did not have a process in place to coordinate with other state agencies regarding sharing excess funding. According to staff in each of the three agencies eligible to receive State Administrative Expense funds, there had previously been a process in place to coordinate sharing of unneeded original allocation funds between the OSN, the Department of Public Health and Environment, and the DHS. Staff turnover at the OSN in 2009 and 2010 contributed to the process not being continued.

Why does the problem matter?

By not spending all of its allocated funds and not taking advantage of opportunities for additional funds, such as applying for reallocated funds and grants available under the Child Nutrition and Women, Infants, and Children Reauthorization Act of 2004, the OSN forfeited approximately \$700,000 in State Administrative Expense funds and forwent the opportunity to apply for more than \$1.5 million in grants that could have been used to improve Colorado's child nutrition programs. These funds could be used to hire additional personnel to better monitor and support school districts and the School Meal Program. This additional funding would have enabled the OSN to conduct more frequent monitoring visits and follow-up reviews at school districts with areas of non-compliance. The funds could also be used to provide additional training and technical assistance, both on-site and online, to school district staff. Additionally, by not offering some or all of its unused funds to the other agencies that also operate USDA-supported programs, Colorado lost the opportunity to use available resources to improve program delivery to the people of Colorado. Based on our discussions with the other agencies and with the USDA, as well as reviewing the financial data, each of the agencies returned funds in at least some of the years, indicating that a sharing system could have potentially benefitted all agencies.

Recommendation No. 6:

The Office of School Nutrition (the OSN) should ensure that it is maximizing its use of available federal funds to support oversight and administration of the School Meal Program by:

- a. Continuing to improve its budget monitoring controls, including pulling actual data from the financial system on a monthly basis, ensuring that projections are updated monthly, and ensuring that information is communicated to OSN management frequently and timely for decision-making purposes.

- b. Establishing an ongoing process for identifying potential uses of grants of reallocated funds, as well as Administrative Review and Training Type I and II grants, and for applying for such reallocated funds and grants as warranted.
- c. Working with the Departments of Public Health and Environment and Human Services to reestablish the process previously in place for sharing excess funding among the three departments.

Office of School Nutrition Response:

- a. Agree. Implementation date: Implemented

The Office of School Nutrition (OSN) has recently made several process changes to ensure proactive fiscal oversight including monitoring of budget- to-actual monthly, revising projections quarterly, and performing detailed reconciliations of data from the child nutrition claims system and the financial system semi-annually. The OSN's management team monthly reviews this financial data for decision making purposes.

- b. Agree. Implementation date: April 2014

The OSN is currently documenting the process used to identify and evaluate potential grants and will pursue grants determined to be in the best interest of the child nutrition program administration within the state.

- c. Agree. Implementation date: April 2014

The OSN has begun discussions with the Departments of Public Health and Environment and Human Services and the agencies are working to develop a process for ongoing coordination between the three departments.

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