

**ATTESTATION REVIEW
OF THE
NEBRASKA DEPARTMENT OF
HEALTH AND HUMAN SERVICES
FOOD DISTRIBUTION PROGRAMS**

JULY 1, 2008 THROUGH SEPTEMBER 30, 2009

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Issued on January 7, 2010

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
FOOD DISTRIBUTION PROGRAMS
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Independent Accountant's Report

Citizens of the State of Nebraska:

We have reviewed certain financial procedures and contractual arrangements of the Food Distribution Programs at the Nebraska Department of Health and Human Services (DHHS) for the period July 1, 2008, through September 30, 2009. DHHS' management is responsible for the financial procedures and contractual arrangements of the Food Distribution Programs. We did not obtain a written assertion regarding such matters from management.

Our review was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. A review is substantially less in scope than an examination, the objective of which is the expression of an opinion on certain financial procedures and contractual arrangements of the Food Distribution Programs. Accordingly, we do not express such an opinion.

Based on our review, nothing came to our attention that caused us to believe that certain financial procedures and contractual arrangements of the Food Distribution Programs are not presented, in all material respects, in conformity with the criteria set forth in the Criteria section.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to certain financial procedures and contractual arrangements of the Food Distribution Programs and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over certain financial procedures and contractual arrangements of the Food Distribution Programs or on compliance and other matters; accordingly, we express no such opinions.

Our review disclosed certain findings that are required to be reported under *Government Auditing Standards* and certain other matters. Those findings, along with the views of management and the identification of significant deficiencies and material weaknesses, are

described below in the Summary of Results. A significant deficiency is a deficiency in internal control, or combination of deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report data reliably in accordance with the applicable criteria or framework such that there is more than a remote likelihood that a misstatement of the subject matter that is more than inconsequential will not be prevented or detected. A material weakness is a significant deficiency, or combination of significant deficiencies, that result in more than a remote likelihood that a material misstatement of the subject matter will not be prevented or detected.

This report is intended solely for the information and use of the citizens of the State of Nebraska, management of DHHS, others within DHHS, and the appropriate Federal and regulatory agencies. Although it should not be used by anyone other than these specified parties, this report is a matter of public record and its distribution is not limited.

Signed Original on File

Mike Foley
Auditor of Public Accounts

Cindy Janssen
Audit Manager

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January 7, 2010

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Background

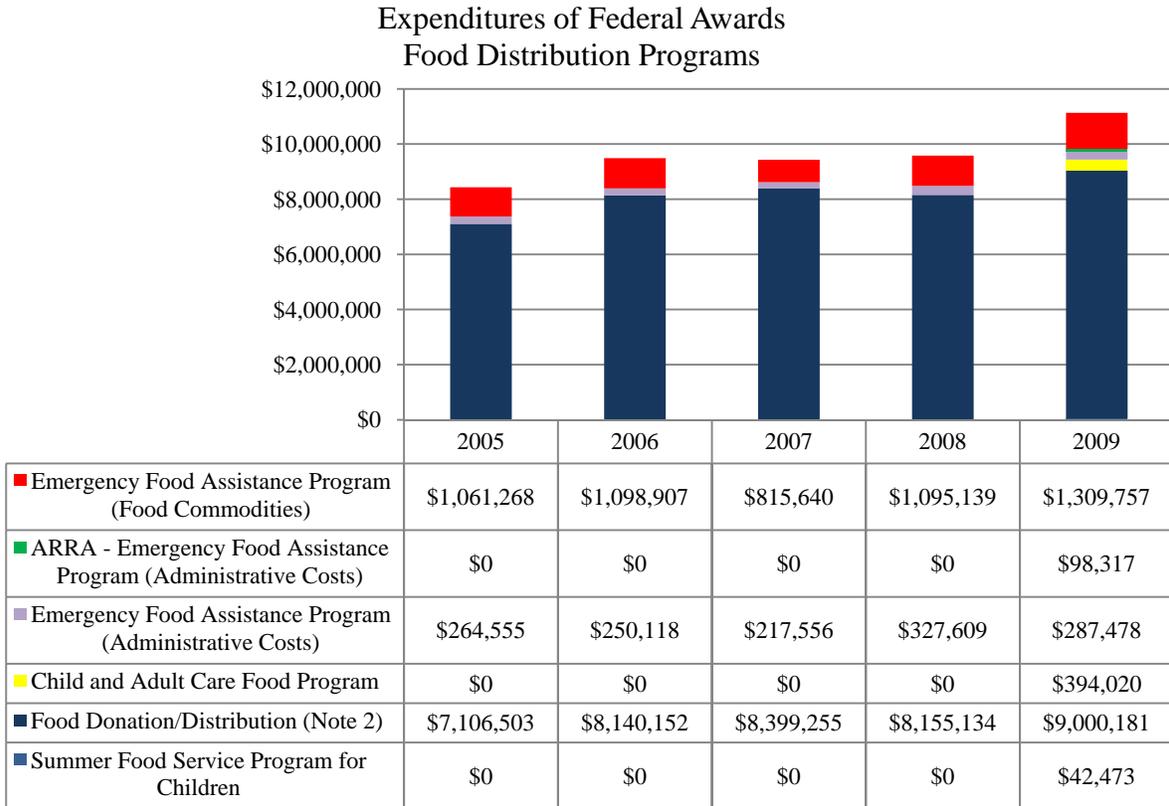
The Nebraska Department of Health and Human Services (DHHS) administers Federal food “entitlement” programs. Through fiscal year 2008, these programs were described as Food Distribution and the Emergency Food Assistance Cluster in the Statewide Single Audit. For fiscal year 2009, these Federal programs are described in the preliminary Statewide Single Audit as the National School Lunch Program, Child and Adult Care Food Program, and the Emergency Food Assistance Cluster. The Auditor of Public Accounts (APA) refers to these programs collectively as the Food Distribution Programs. These programs distribute United States Department of Agriculture (USDA) donated foods (commodities) to distributing agencies, such as the State of Nebraska (State), which in turn distributes the commodities to recipient agencies, including schools, child and adult care agencies, summer food service programs, food banks, soup kitchens, and food pantries. The State receives commodities directly from the USDA, and the recipient agencies pay to have the commodities stored, processed, and shipped. Under The Emergency Food Assistance Program (TEFAP), the State receives administrative funds to support the storage and distribution of donated commodities that must, in part, be passed down to local agencies.

In September 2009, DHHS requested the APA to conduct a review of the Food Distribution Programs after some potential issues were identified by employees.

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The following chart shows the value of the food commodities and administrative costs incurred for the last five fiscal years:



Note 1: Information for all years obtained from Nebraska’s Statewide Single Audit report. Because it has not been audited, fiscal year 2009 information is preliminary and may be subject to change.

Note 2: For fiscal year 2009, the program shown as “Food Donation/Distribution” on previous Statewide Single Audits is broken down into the National School Lunch Program, Child and Adult Care Food Program, and Summer Food Service Program for Children.

The State contracts with processing companies to have commodities turned into more useable food items for the recipient agencies. Contracts must be established with each processor on an annual basis, with the option to have four yearly renewals after the initial contract. A request for proposal (RFP) is submitted to have vendors bid on the type of commodity they would like to process for use by the recipient agencies, including cheese, eggs, flour, etc. Once bids are received by the program staff, a contract is awarded to the vendor who scores the highest based on nutrition, cost, and taste. The nutrition and cost scores are based on the information submitted by the vendor, and the taste score is determined from a tasting panel made up primarily of school food service managers across the State. The following is a list of processors under contract for the period of our review:

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Year	Vendor Name	Period of Contract
2008	Café Favorites	7/1/08 thru 6/30/09
2009	Café Favorites	7/1/09 thru 6/30/10
2008	Cargill Kitchen Solutions	7/1/08 thru 6/30/09
2009	Cargill Kitchen Solutions	7/1/09 thru 6/30/10
2008	East Side Entrees	7/1/08 thru 6/30/09
2009	East Side Entrees (Flour)	7/1/09 thru 6/30/10
2009	East Side Entrees (Cheese)	7/1/09 thru 6/30/10
2008	Giorgio Foods Inc	7/1/08 thru 6/30/09
2009	Horizon Snack Foods	7/1/08 thru 6/30/10
2008	House of Raeford Farms Inc	7/1/08 thru 6/30/09
2009	House of Raeford Farms Inc	7/1/09 thru 6/30/10
2008	Integrated Food Services	7/1/08 thru 6/30/09
2009	Integrated Food Services	7/1/09 thru 6/30/10
2009	Jennie - O Turkey Store	7/1/09 thru 6/30/10
2008	JTM Provisions Co.	7/1/08 thru 6/30/10
2008	Land O'Lakes	7/1/08 thru 6/30/09
2009	Land O'Lakes	7/1/09 thru 6/30/10
2009	Ling's	7/1/09 thru 6/30/10
2008	Michael Foods, Inc.	7/1/08 thru 6/30/09
2009	Michael Foods, Inc.	7/1/09 thru 6/30/10
2009	National Food Group (Miceli Dairy)	7/1/09 thru 6/30/10
2009	National Food Group (United Commodity)	7/1/08 thru 6/30/10
2009	Pierre Foods, Inc	7/1/09 thru 6/30/10
2008	Pierre Foods, Inc (Beef)	7/1/08 thru 6/30/09
2008	Pierre Foods, Inc (Fruit)	7/1/08 thru 6/30/09
2009	Pilgrims Pride Corp	7/1/08 thru 6/30/10
2009	Rich Products (Flour)	7/1/09 thru 6/30/10
2009	Rich Products (Cheese)	7/1/09 thru 6/30/10
2008	Schreiber Foods Inc	7/1/08 thru 6/30/09
2008	Tyson Sales and Distribution Inc. (Chicken)	7/1/08 thru 6/30/10
2008	Tyson Sales and Distribution Inc. (Beef)	7/1/08 thru 6/30/09

Commodities are made available to states based on their countable meals served in the prior year, which is an estimate since the year has not yet ended. DHHS staff prepare an offering sheet, which is sent to recipient agencies indicating the types and amounts of commodities and food items available. On a monthly basis, recipient agencies (schools, etc.) submit this offering sheet to DHHS, which places the order. Commodities are then shipped from the USDA to the warehouse/storage facility used by the State. The distribution of the commodities to the recipient agencies is completed using a carrier under contract with the State.

Criteria

The criteria used in this attestation review were Nebraska State Statutes, Code of Federal Regulations, Records Retention Policies, and good internal controls.

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Summary of Procedures

Pursuant to Neb. Rev. Stat. § 84-304 (Reissue 2008), the Auditor of Public Accounts (APA) conducted an attestation review of certain financial procedures and contractual arrangements of the Food Distribution Programs for the period July 1, 2008, through September 30, 2009, in accordance with standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The APA's attestation review consisted of the following procedures:

1. Reviewed the Food Distribution Programs' guidelines and discussed those with program staff to gain an understanding of the programs.
2. Documented the contract process for processors, storage facilities and carriers, as well as the direct shipment process.
3. Reviewed controls over the cash receipt process.
4. Reviewed paid invoices to ensure payment to vendors was made timely.
5. Reviewed TEFAP grant expenditures to compare amounts obligated to amounts awarded.
6. Documented and reviewed management's concerns regarding the programs and staff.

Summary of Results

The summary of our attestation review noted the following findings and recommendations:

1. Over-obligated TEFAP Grant

DHHS staff informed the APA that the TEFAP grant may have been over-obligated. The APA reviewed the expenditures for TEFAP and verified unpaid invoices totalling \$107,196 as of October 1, 2009, which were for the previous Federal fiscal year. DHHS only had \$11,820 in 2009 TEFAP grant money remaining to pay those invoices. As a result, the TEFAP grant was over-obligated by \$95,377, as noted below. This finding is a material weakness.

Invoice Date	Unpaid Vendor Invoices	Amount
10/31/2008	Catholic Social Services	\$ 43.65
11/5/2008	Cedar Co. Comm. Caretakers	\$ 48.50
11/7/2008	Improved Living Food Bank	\$ 728.90
1/23/2009	Catholic Social Services	\$ 43.65
2/11/2009	Ord Area Food Pantry	\$ 75.18
3/31/2009	Omaha Food Bank	\$ 10,296.06
5/26/2009	Omaha Food Bank	\$ 4,882.37
5/26/2009	Omaha Food Bank	\$ 5,623.83
5/26/2009	Kearney Food Bank	\$ 4,204.80
5/28/2009	Omaha Food Bank	\$ 4,615.96
6/1/2009	Millard Refrigerated	\$ 2,084.40
6/5/2009	Millard Refrigerated	\$ 2,340.09
6/17/2009	Millard Refrigerated	\$ 1,404.05
6/17/2009	Millard Refrigerated	\$ 2,340.09
6/19/2009	Millard Refrigerated	\$ 2,340.09
6/24/2009	Millard Refrigerated	\$ 1,345.13
6/25/2009	Millard Refrigerated	\$ 2,300.50
6/30/2009	Millard Refrigerated	\$ 2,340.09

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Invoice Date	Unpaid Vendor Invoices	Amount
7/1/2009	Share Food Pantry	\$ 46.08
7/2/2009	Millard Refrigerated	\$ 2,483.91
7/8/2009	Millard Refrigerated	\$ 2,291.94
7/9/2009	Millard Refrigerated	\$ 2,215.54
7/10/2009	Millard Refrigerated	\$ 2,547.60
7/15/2009	Salem Food Pantry	\$ 60.63
7/22/2009	Millard Refrigerated	\$ 2,511.28
7/22/2009	Lincoln Food Bank	\$ 764.35
7/23/2009	Improved Living Food Bank	\$ 339.50
7/24/2009	Omaha Food Bank	\$ 661.40
7/30/2009	Millard Refrigerated	\$ 2,006.25
8/3/2009	Millard Refrigerated	\$ 1,258.75
8/10/2009	Millard Refrigerated	\$ 2,237.86
8/10/2009	Millard Refrigerated	\$ 2,387.76
8/11/2009	Millard Refrigerated	\$ 867.97
8/19/2009	O'Neil Food Pantry	\$ 36.86
8/21/2009	Millard Refrigerated	\$ 1,558.23
8/24/2009	Lincoln Food Bank	\$ 3,857.30
8/25/2009	Millard Refrigerated	\$ 2,556.84
8/25/2009	Millard Refrigerated	\$ 2,308.03
8/28/2009	Siouxland Food Bank	\$ 600.70
8/31/2009	Millard Refrigerated	\$ 2,369.30
9/4/2009	Millard Refrigerated	\$ 2,281.80
9/4/2009	Millard Refrigerated	\$ 797.41
9/4/2009	Millard Refrigerated	\$ 2,281.80
9/4/2009	Millard Refrigerated	\$ 1,450.43
9/8/2009	Millard Refrigerated	\$ 1,016.98
9/10/2009	Millard Refrigerated	\$ 2,297.67
9/10/2009	Mid Nebraska Food Bank	\$ 3,732.74
August 2009	Omaha Food Bank	\$ 3,096.53
August 2009	Together Inc.	\$ 7,157.21
Unknown	Tekamah-Herman	\$ 58.20
Total Unpaid Invoices for fiscal year end 9/30/09		\$ 107,196.19
Available 2009 Grant Funds		\$ 11,819.57
Over-obligated Grant Funds		\$ 95,376.62

Additionally, an invoice from Federal fiscal year 2008, dated August 7, 2008, did not appear to have been paid. DHHS staff indicated this total amount of unpaid invoices may not be final, as they had not confirmed all unpaid amounts with the vendors.

Two DHHS staff members were responsible for the TEFAP grant during the period under review. One of the staff members separated from employment with the State in August 2009. The other was placed on paid administrative leave in September 2009. Due to the absence of those key personnel, the cause of the over-obligation could not be determined; however, it appears the over-obligation was a result of bonus foods offered by the USDA. Bonus foods are periodically offered by the USDA due to surplus agricultural commodities. The bonus foods do not affect the State's entitlement amount, but the State must still pay for the storage and distribution of the bonus foods. It appears there was not enough grant money available for the storage and distribution of the bonus foods received by the State. DHHS will likely be liable for the unpaid bills from the vendors, as Title 7 Code of Federal Regulations (CFR), Section 3016.23(a) states, "Where a funding period is specified, a grantee may charge to the award only

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costs resulting from obligations of the funding period . . .” It does not appear DHHS had procedures in place to monitor the costs of administering the TEFAP funds compared to the amount and the period of funding available.

Sound accounting practices include the monitoring of program expenditures to ensure Federal grant awards are not over-obligated. Without such monitoring and controls over program expenditures, there is an increased risk the Federal funds will be over-obligated, resulting in financial risk to the State.

We recommend DHHS implement procedures to ensure funds are sufficiently available to cover program costs, and the expenses are charged to the appropriate grant based on the grant’s period of availability. DHHS will need to determine how they are going to fund these over-obligated amounts as the expenditure has already occurred.

DHHS’s Response: The Department agrees with this finding. The Department has taken steps to identify the unpaid invoices and pay them with available funds. The TEFAP account is now current and invoices are being paid in a timely manner. The FDP and Finance Department will continue to work together to put in processes that ensure timely payments and accurate spending practices. The FDP Salvage Fund and interest from that account has been used to fund the over-obligated amounts.

Anticipated Completion Date: March 1, 2010

2. Distribution of USDA Commodities

Historically, carrier services from State-contracted warehouses to recipient agencies across the State were let for bid. The State was divided into seven geographical areas for bidding. The company with the lowest bid within a given geographical area was awarded the shipping contract for that region. Approximately three years ago, according to DHHS staff, the DHHS Food Distribution Program Coordinator was contacted by a company that wanted to receive USDA commodities directly to its warehouse and ship the commodities to receiving agencies with which this company already did business. The Food Distribution Program Coordinator was the only State employee involved in the discussions with this company, which subsequently was established as a warehouse with the USDA to receive commodities for the 2007-2008 school year. No public RFP process or contract was involved.

As word of this arrangement spread, two other distributors approached the Food Distribution Program Coordinator regarding the direct shipping of USDA commodities. One distributor began shipping commodities to certain school districts during the 2008-2009 school year. The other distributor was allowed to receive USDA commodities directly, beginning in approximately March 2009. These two distributors began to solicit schools to use them as their

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USDA commodities carrier, apparently giving the schools discounts on other food (non-USDA commodity) ordered through the distributor if the schools also used them to deliver their USDA commodities directly.

These three distributors delivered to schools in geographical areas that had been previously awarded to another carrier under the RFP process. The APA noted the following issues related to the arrangements with these three distributors:

- There were no contracts between the State and these three distributors to store and distribute USDA commodities. A fair and competitive bidding process was not utilized, as other distributors were not offered the opportunity to bid on this type of carrier service through a public RFP process. Title 7 CFR Section 3015.182 states, “All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value shall be conducted in a manner that provides maximum open and free competition.” Additionally, Title 7 CFR Section 250.12(b) states, “Distributing agencies shall enter into written agreements with all sub-distributing agencies, recipient agencies, warehouses, carriers, or other entities to which distributing agencies deliver donated foods under their distribution program.”
- Because DHHS did not have a written contract or agreement with these distributors, the rates charged to receiving agencies for the carrier services were not fixed. According to these vendors, DHHS verbally advised them on the rates to charge. DHHS staff indicated the rates were provided to the distributors by the Food Distribution Program Coordinator; however, there was no documentation to indicate how the rates were determined. Title 7 CFR Section 250.14(a)(1) states, “Distributing agencies shall use the most cost effective and efficient system for providing warehousing and distribution services to recipient agencies.”
- Title 7 CFR Section 250.14(b) states, “Distributing agencies, sub-distributing agencies and recipient agencies shall provide facilities for the handling, storage, and distribution of donated foods which: (1) Are sanitary and free from rodent, bird, insect and other animal infestation; (2) Safeguard against theft, spoilage and other loss; (3) Maintain foods at proper storage temperatures; (4) Excepting recipient agencies, stock and space foods in a manner so that USDA-donated foods are readily identified; (5) Store donated food off the floor in a manner to allow for adequate ventilation; and (6) Take other protective measures as may be necessary.” Title 7 CFR Section 250.14(d)(1) requires that contracts contain, at a minimum, the assurance that the storage facility will be maintained in accordance with the standards specified above. Due to the lack of written contracts, there was no guaranty of either the specific warehousing provisions or the assurance related thereto, as required by the Federal regulations.
- DHHS was unable to ensure equitable deliveries, as not all program participants had an equal opportunity to utilize these distributors as carriers. As mentioned, the distributors directly solicited the recipient agencies with which they wanted to do business. Additionally, delivery schedules were not maintained by the State for these distributors, as required by Title 7 CFR Section 250.13(a)(6): “Distributing agencies shall maintain monthly distribution schedules which provide for equitable and reliable deliveries to recipient agencies.”

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- DHHS did not complete annual reviews for these storage facilities and did not maintain supporting documentation to reflect compliance with Federal regulations regarding annual reviews. Annual inventories were not taken by DHHS, and no inventory reconciliation records were maintained by DHHS or the storage facilities. Title 7 CFR Section 250.14(c) states, “All distributing agency-level storage facilities shall be reviewed annually. Distributing agencies shall ensure that sub-distributing and recipient agencies conduct annual reviews of their respective storage facilities. Documentation shall be maintained on file at the distributing agency or local level as appropriate to reflect compliance with this section, including documentation of corrective action in cases of noncompliance.” Title 7 CFR Section 250.14(e) states, “During the annual review required by paragraph (c) of this section, distributing agencies...shall take a physical inventory of their storage facilities. The physical inventory shall be reconciled with each storage facility’s book inventory. The reconciliation records shall be maintained by the agency that contracted for or maintained the storage facility.”

It does not appear the State of Nebraska, as the distributing agency, was in compliance with many of these Federal regulations.

We recommend DHHS follow the Federal regulations regarding the procurement of services. We also recommend establishing formal written procedures to ensure compliance with Federal regulations covering the programs.

DHHS’s Response: The Department agrees with this finding. The Department has notified all interested parties that a Request for Proposal (RFP) process will be used for the next school year for all applicable schools receiving USDA commodities. Contact has been made with the USDA, DHHS’ Legal Counsel and the Department of Administrative Services to ask for their assistance in this RFP process.

Anticipated Completion Date: July 1, 2010

3. Contract Procedures

The APA reviewed the procedures for awarding contracts to vendors serving the Food Distribution Programs. Page 4 of the State of Nebraska Purchasing Bureau Agency Procurement Manual for Services (October 2008) allows agencies to complete the bid contract at the agency level, request assistance from the Department of Administrative Services (DAS) Materiel Division State Purchasing Bureau to include performing the bid process for the agency, or request the DAS Director to approve an alternate process for the procurement of services. DHHS elected to perform the bid process at the agency level, which required DAS Materiel Division to pre-review the RFP. We noted the following issues:

- There was inadequate oversight over the contract awarding process. The Food Distribution Program Coordinator received, opened, and scored the bids. The contracts were then awarded by the Food Distribution Program Coordinator without any

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involvement or review by a second individual to ensure the scoring was accurate or to ensure the vendor with the top overall score was awarded the contract.

- According to DAS Materiel Division, the Food Distribution Program Coordinator was not properly trained and certified with the DAS Materiel Division State Purchasing Bureau. Page 21 of the State of Nebraska Purchasing Bureau Agency Procurement Manual for Services (October 2008) defines state agency personnel for purposes of the State Purchasing Bureau's procurement training and certification program as an employee who performs any of the following procurement functions as part of their job: identifies or selects potential vendors, solicits proposals from vendors, evaluates proposals, awards contracts, etc. Clearly, the Food Distribution Program Coordinator's responsibilities noted above would require them to be properly trained and certified.
- The awarded contracts for processors did not explicitly indicate which food items were included in the contract. The winning food items are noted on the award letter, but a copy of the award letter is not maintained with the contract.
- Signed contracts are not always routed to DHHS' central repository to be filed and maintained, as required under State record retention policies. The APA noted an email from DHHS central repository staff indicating the need for copies of contracts or renewal agreements for their records.

Good internal control includes adequate oversight of the contract-awarding process to ensure the winning vendor was chosen through a fair bidding process. Sound business practices include explicitly stating the items to be provided under the contract. In addition, DHHS Records Retention Schedule 150-3-1-2-2-5 (August 17, 2009) – Records Management/Service Contracts – requires contracts to remain on file for five years after completion, fulfillment, or voiding of contract, subject to review by the State Archives for possible accession, and provided an audit has been completed.

We recommend DHHS implement procedures to ensure proper oversight for awarding contracts. DHHS should consider whether these contracts should be procured through DAS Materiel Division. If DHHS continues to process the contracts internally, DHHS personnel involved in the procurement processes should be properly trained and certified under the DAS Materiel Division State Purchasing Bureau. We also recommend all contracts and renewal agreements be sent to the DHHS central repository to comply with records retention policies. Finally, we recommend winning food items be listed in the contract.

DHHS's Response: The Department agrees with this finding. All future contracts will be written after a formal RFP process with more than one individual involved. The Department will work with DAS to seek their assistance and approval of contracts when appropriate. Contracts will be routed to the central repository.

Anticipated Completion Date: July 1, 2010

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4. Cash Deposits

The APA reviewed the procedures for the handling of cash received by the programs. DHHS deposited \$5,992,439 during the review period. We noted the following issues:

- Checks received by DHHS were not immediately endorsed and changed hands several times prior to being endorsed. Good internal control requires checks to be endorsed immediately upon receipt to reduce the risk of fraud or unauthorized use of the funds.
- One individual entered the checks into an Excel spreadsheet to create a log of all checks received each day. The spreadsheet was sent to the Accountant, who entered the checks into the billing system for the Food Distribution Programs and also entered the deposit information into NIS. Someone other than the Accountant did not review the Excel spreadsheet after the money had been deposited to ensure all money received and logged was actually deposited. Good internal control requires a proper segregation of duties over the cash receipt process, so no one individual is in a position to both perpetrate and conceal errors or irregularities.
- Checks were not deposited timely. Six deposits were made during the month of September 2009, totaling \$288,077; of those, \$28,607 was not deposited within the three days required by statute. Neb. Rev. Stat. § 84-710 (Reissue 2008) states, “It shall be unlawful for any executive department, state institution, board, or officer acting under or by virtue of any statute or authority of the state, including the State Racing Commission, to receive any fees, proceeds from the sale of any public property, or any money belonging to the state or due for any service rendered by virtue of state authority without paying the same into the state treasury within three business days of the receipt thereof when the aggregate amount is five hundred dollars or more...”

We recommend DHHS endorse checks received immediately to reduce the risk of fraud. We also recommend DHHS implement procedures to ensure a proper segregation of the cash depositing process, including an independent review of the initial check log to the actual deposit in NIS to ensure all amounts received by the State were actually deposited. Finally, we recommend DHHS ensure compliance with State statute by depositing checks within three business days of their receipt.

DHHS's Response: The Department agrees with this finding. FDP and Finance are working together to endorse checks immediately and allow for proper segregation of the cash depositing process. Deposits are being made within three business days.

Anticipated Completion Date: Completed. Beginning September 1, 2009 the Department implemented a separation of duties for recording and endorsing checks, from the deposit.

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5. Timely Payment of Invoices

DHHS was not paying vendor invoices timely. The APA tested six invoices, four of which were not paid within 60 days of the invoice date, as follows:

Vendor	Invoice Date	Amount	Description	NIS Payment Date	Number of Days Payment Outstanding
Advanced Food Company	1/31/2009	\$ 11,175.00	Beef Patty Processing	4/7/2009	66
Food Bank of Lincoln	5/19/2009	\$ 11,746.56	Distribution Payment	8/24/2009	97
Millard Refrigerated Services*	6/19/2009	\$ 19,125.57	Warehouse Fees	9/23/2009	70-96
Canning Truck Service**	6/30/2008	\$ 675.50	Carrier Services	9/5/2008	50-67

* Included a number of invoices from 6/19/09 to 7/15/09

** Included a number of invoices from 6/30/08 to 7/17/08. Total of all of the invoices was \$8,232.75.

As noted in Finding Number 1 above, DHHS had \$107,282 in unpaid invoices relating to TEFAP as of September 30, 2009. Thirty of the unpaid invoices totaling \$63,072 were between 61 and 419 days old. This finding is a significant deficiency.

Additionally, the APA noted an error in the payment of the invoice to the Food Bank of Lincoln. Food banks receive payments based on the number of pounds of commodities they receive; an \$83 overpayment to the Food Bank of Lincoln occurred due to a conversion error from kilograms to pounds.

Neb. Rev. Stat. § 81-2403 (Reissue 2008) states, “(1) Except as provided in subsection (2) of this section, each agency shall make payment in full for all goods delivered or services rendered on or before the forty-fifth calendar day after (a) the date of receipt by the agency of the goods or services or (b) the date of receipt by the agency of the bill for the goods or services, whichever is later, unless other provisions for payment are agreed to in writing by the creditor and the agency. (2) Any agency making payment for goods or services provided for third parties shall make payment in full for such goods or services on or before the sixtieth calendar day after the date of receipt by the agency of the bill.” Good internal control includes procedures to ensure the timely payment of invoices.

We recommend DHHS implement procedures to ensure invoices received are paid in accordance with the statutory requirements. We also recommend invoices be adequately reviewed prior to payment to reduce the risk of errors in the payment amount.

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DHHS's Response: The Department agrees with this finding. The Department has identified all due invoices and after accounts have been balanced and budgeted, the invoices are now being paid timely. A process will be put in place to ensure timely payments of all future invoices.

Anticipated Completion Date: July 1, 2010

6. Electronic Commodity Ordering System

DHHS uses the USDA's Electronic Commodity Ordering System (ECOS) to order commodities online. ECOS has built-in capabilities for approving orders. Two DHHS employees had administrator access to ECOS; therefore, they were not required to have a separate review or approval of orders they submitted. For the 2009-2010 Federal fiscal year, DHHS was entitled to order \$10,851,515 in USDA commodities.

The State distributing agency initially submits a budget to the USDA through ECOS during the months of January through March for the following fiscal year. This budget indicates the foods the State distributing agency planned to order for the following year. After the Food Distribution Program Coordinator was placed on paid administrative leave, DHHS staff determined the State had budgeted \$1,354,757 more in commodities than the entitlement allowed for the school lunch program for 2009-2010.

Good internal control includes procedures to ensure orders are properly reviewed and approved by a second individual and amounts ordered are within the State's allotted amount (entitlement).

We recommend DHHS implement the approval process in ECOS to ensure two individuals are involved in the commodity ordering process and yearly budgets are within the State's entitlement amount.

DHHS's Response: We agree with this finding. The Department will work with our federal partners to establish a process to ensure two individuals are involved in the commodity ordering process. Food Distribution management will work with Finance to maintain a budget and stay within the budget.

Anticipated Completion Date: July 1, 2010

Overall Conclusion

The APA documented significant oversight issues with the Food Distribution Programs. It appears the Food Distribution Program Coordinator performed all functions of the programs without proper monitoring and oversight. The APA documented the over-obligated Federal grant amount, resulting in a financial liability to DHHS, the lack of procedures for monitoring Federal guidelines regarding the procurement of services, the lack of procedures regarding the

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awarding of contracts, the lack of procedures for cash receipts, and the lack of procedures to ensure timely payments to vendors. We recommend DHHS develop processes to strengthen controls and to safeguard assets. We also recommend management become more involved in the daily processes of the Food Distribution Programs to ensure proper oversight of business activities.

The APA staff members involved in this attestation review were:

Philip Olsen, CPA, CISA, Auditor-In-Charge

Marta Schrock, Auditor-In-Charge

Cindy Janssen, Audit Manager

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If you have any questions regarding the above information, please contact our office.