

USDA Food and Nutrition Service
Tribal Consultation Quarterly Session
August 29, 2012

Good afternoon. Welcome and thank you all for joining today's conference. Your lines have been placed in listen-only mode until introduction and questions. Today's conference is being recorded. If you have any objections, please disconnect at this time. And now I'd like to turn the call over to Mr. Duke Storen. Thank you, sir. You may begin.

Thank you, and welcome. Again, my name is Duke Storen. I'm the chief of staff of the Special Nutrition Program at the Food and Nutrition Service at the U.S. Department of Agriculture. I'd like to welcome everyone today and thank you for joining us for this consultation meeting. Today's session is part of our regularly scheduled quarterly consultation calls, and during today's session we're going to spend some time talking about our past year together doing consultations and our consultation efforts at large.

For many of us, this year has been filled with many new opportunities, especially when we look at the significant work done in improving nutrition for children through the Healthy Hunger-Free Kids Act. These improvements are positively impacting children across the country and in Indian country. This past year we continue to see improvements in USDA Foods and the products made available to the Food Distribution Program on Indian Reservations. We're constantly working toward healthier food options and nutrition education, and we look to our consultation sessions to continue this dialogue with you, our tribal leaders.

This year has also been sad for us, for when we learned of the news of our colleague and friend's passing, Mr. Joe Bluehorse. Joe had a remarkable and passionate career administering federal food distribution programs spanning 30 years on the Pine Ridge Reservation. His dedication and commitment to helping others by administering both the Food Distribution Program on Indian Reservations, FDIPIR, and the Commodities Supplemental Food Program will be dearly missed by all of us.

I'd now like to introduce someone who knew Joe very well and worked closely with him through his career to share a few words. Ms. Darlene Barnes, Regional Administrator for the Mountain Plains region of the Food and Nutrition Service.

Thanks, Duke, and good afternoon, everyone. Yes, I did have an opportunity to work with Joe Bluehorse actually the last 14 years, but more importantly, as Duke mentioned, his career spanned over 30 years, both on Pine Ridge Reservation, as well as his work at the national level with the Food Distribution Program on Indian Reservations. I also had an opportunity to be at the service for Joe, and I just know that his love of his family and of his friends and of the people who participated in the program is just unbelievably special, and we will miss that. He always made sure that people had a voice and he spoke up when it was appropriate, and we always knew that people were being heard when Joe, for sure, was at the table.

I don't know how many of you on the phone right now knew Joe Bluehorse, but his family appreciates so much just the outpouring of care and respect and we will miss him greatly. But as I said to many people that day, that he would want us to continue to move forward, to do the right thing in these programs, to help those that are in need, and to always make sure that we're having a dialogue with each other to improve programs and move on a continue, if you will, to make sure that there are people who are not hungry out there on the reservations. So I say that in deepest sympathy but also in great respect, and as Duke said, we will miss him greatly. And we'll look forward to talking more about Joe and his life through the years. So thank you very much for allowing me to be here.

Thank you so much, Darlene. Also joining us today is Dr. Janey Thornton. Dr. Thornton is the Deputy Under Secretary for the Food, Nutrition, and Consumer Services at USDA. She's you know, my boss's boss up there. She was appointed by the President and would like to offer some welcoming remarks.

Thank you so much, Duke. I'm very happy to be here and be a part of FNS consultation meeting today. As Duke mentioned, my name is Janey Thornton, and I'm the Deputy Under Secretary for Food, Nutrition,

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and Consumer Services. I'd like to start by mentioning how important these consultation sessions are. During these sessions we have the opportunity to engage in formal consultation regarding the regulations for our programs like the Supplemental Nutrition Assistance Program and School Meals.

We also have the opportunity, as we have seen this past year, to dialogue with you on new initiatives and grants like Farm to School and the regional vendor pilot for the Food Distribution Program on Indian reservations. Our conversations are so important and I thank you for being here today. Secretary Vilsack made improving relations with Native American tribes a priority, and we take this priority very seriously. And as we continue to build upon our consultation efforts, I'd like you to know that our staff here at FNS will continue to support consultation opportunities throughout the year to ensure we can meet regularly and have these discussions.

We've been actively engaged in consultation with tribal leaders throughout this past year. I may have even met some of you as I visited out and about the country in this past year. We've been consulting with you now on a regular basis on regulations from the Healthy Hunger-Free Kids Act and how these important programs for child nutrition may better serve our Native children. These sessions have been so extremely important and as we continue to dialog and consult with you on regulations for all our programs like our SNAP, our WIC, our Summer Meal Programs, just as an example, as our regulations go through the regulatory process to ensure we receive your feedback. That is extremely important to us.

We are structuring this process to have consultation prior to when rules are drafted to ensure tribal input at the beginning of the regulatory process. As I have said, this effort is so, so important. Through our consultation effort, we will ensure tribal input across agency efforts. I'd like to thank all of you for joining us today and for your commitment and your passion when it comes to nutrition assistance programs. I certainly look forward to today's discussion and thank you again, and welcome you to today's session. Duke.

Thank you, Janey. Before we start with our first agenda item, I'd like to invite everyone joining us today over the phone to participate in introductions. Today's consultation session is being recorded and will be transcribed and included in the official USDA consultation record. I welcome everyone to participate in introductions over the phone. We'd like to ensure we capture your name and tribe for the official consultation record. I know we have many folks joining us over the phone. I'd like to start by first inviting tribal leaders, elders, and their designees to introduce themselves. Then we'll proceed with introductions from tribal members joining us today, such as program directors and other folks.

I'll now turn it over to our moderator, Barbara Lopez to help us with introductions. I'll also ask her to cover any additional items regarding today's meeting, including the agenda material. Barbara.

Thank you, Duke. We do have several handouts for today's discussion. Those handouts were e-mailed to you late last week, and we also sent a reminder via e-mail with all the handouts earlier today. And if for any reason you did not receive any of those handouts, please let us know during introductions and we'd be happy to e-mail them to you during this call so that you do have them available. Also, you can find all of our handouts on our tribal web page. For the Food and Nutrition service, we do have a dedicated webpage for our consultation efforts. And that web address, I'll go ahead and share it with you right now, it's WWW.FNS.USDA.GOV/FNS/TRIBAL . We post all the materials there for easy access.

You'll find the agenda. You'll also find some documents that we're going to be referencing during today's consultation meeting; for example, we have a proposed consultation schedule as a handout for next federal fiscal year, which begins October 1st, and that is a consultation item for today's session. We also have information on a proposed rule, which we currently have open for comment for the Supplemental Nutrition Assistance Program, and you're also going to find additional handouts when we cover updates, and those handouts are on FDPIR and on the Child and Adult Food Care Program, and the Summer Food Program, so lots of information on that website.

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Okay. We'll go ahead now and start with introductions, which we're going to do over the phone. As Duke mentioned, we do have many attendees, so we'd like to start first with tribal leaders, elders, and designees joining us today. We are going to have the operator assist us with introductions. You're going to press "*1" on your phone, and this will allow you to connect with the operator who will connect you with us. You can introduce yourself with your name and your tribe, and we'll be able to make sure we include that as part of our official consultation record.

Today's session is being recorded and it is going to be part of that official record. So, please, once again, join us for introductions by pressing "*1." And I'll go ahead and have the operator assist us with the first introduction please.

Attendees

William Hardy, State of Montana

Melinda Newport, Director of Nutrition Services with the Chickasaw Nation

Suzie Roy, Leech Lake Food Distribution Program. This week we are in our regional meeting, and we have 21 tribes here representing the Midwest region on this conference call today.

Gina Steves, AOA Coordinator and Nutrition Manager, Blue Lake Rancheria in Blue Lake, California

Cecelia Gonzales-Lyons, FDPIR Coordinator, Umatilla Tribe, Oregon

Linda Walker, Yakama Nation

Suzie Linton, FTP Director, Southern California Tribal Chairman's Association, Southern California

Georgia Barros, Director for the Nez Perce Tribe Food Distribution Program in Lapwai, Idaho

Fi Davis, Osage Nation Food Distribution Program

Sandra Boletto, Coquille Indian Tribe, Oregon

(INAUDIBLE), Grand Portage, Minnesota

Lydia Ochoa Chemehuevi Tribe

Heidi Lanes, Nutrition Coordinator, Pueblo of Isleta

Roxanna Newsom, Chickasaw Nation of Oklahoma and President, NAFDPIR

Joanna Merrick, Nez Perce Tribe

Forest Farris, Montana Department of Public Health and Human Services

Gregory Nothstine, Alaska Native Tribal Health Consortium

Thanks, Barbara, and thanks to everyone for joining us for today's call and for our introductions. So let's get started. Our first agenda item is on our consultation process and schedule proposed by FNS. I thought I'd give a summary of our consultation efforts to help frame the conversation. So in federal fiscal year 2011 we participated in a collaborative opportunity designed by the USDA Office of Tribal Relations to consult on the 2008 Farm Bill and its regulations. We joined five other USDA agencies, and consultation sessions were held in seven states across the country, each over a two-day period. These sessions were offered in person.

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Also in 2011, we conducted various webinar and conference call consultation sessions to consult on one of our big pieces of legislation, the Healthy Hunger-Free Kids Acts. Just to sort of frame it, the Farm Bill authorizes the SNAP program and the FDPIR program and TFAP and our other USDA foods-related programs, and the Healthy Hunger-Free Kids Act authorizes all of our Child Nutrition programs, the School Meals, and reimbursement to childcare centers and summer feeding, our WIC program, so these are two sort of big authorizing pieces of legislation.

So in 2011 we dealt with the Farm Bill sort of early on in the fall, around the country, joining our colleagues from around USDA, and then later in that spring, after the Healthy Hunger-Free Kids Act passed, we really wanted to get out there and do a consultation as soon as possible, just as Dr. Thornton said earlier, to try to get that input about the Bill before we drafted regulations, and we did that by both phone and webinar, and we got great participation, I think in both. And I think the more we did sort of phone and webinar-based consultations, we did a series of them, the more people got acclimated to the way that we did them. We saw our participation really increase, and we got some really great feedback from that process.

So, again, I'd like to thank those tribal leaders and other tribal members who participated in both of those. And we also had some great cooperation from NCAI to help us get the word out about those, as well as providing us an opportunity in their winter conference at the tribal self-governing conference in 2011. So that was sort of 2011.

So moving on to 2012, we proposed consulting on a regular scheduled basis, so that was something new. So we had done these sort of ad hoc consultations, and part of the feedback that we got was, you know, it would be great if we had a regular schedule so that we, as USDA and tribal leaders, could each propose different agenda items as they came up, and so if we missed one consultation session we knew that another one was coming up, you know, the next quarter, and so we could sort of build our agenda and meet the needs of the sort of fruitful dialogue, and so we did.

We put out and promoted a consultation once a quarter. It was a conference call format, much like we're doing today, and we saw that our participation continued to increase and the value of that dialogue really continued to build, and we covered topics ranging from the ACT to regulations to studies to specific program issues, particularly in FDPIR. We also supplemented these quarterly sessions with additional consultations on very specific topics. So the quarterly ones were general, anything goes, whoever had a topic proposed it, we included that.

We had a couple things we knew we really wanted to talk about so we scheduled, and it might take some time to both explain and discuss. And so we had two additional specific sessions, one on a study of the Food Distribution Program on Indian reservations. We haven't updated the study in a number of years to really understand the characteristics of the participants and the experience of tribes in the program, and so we spent a lot of time on that session.

And we are actually, to kind of skip ahead to a preview of some of the things that we're thinking about for 2013, we would like to add some additional consultation venues and consult in person with the tribes selected to be part of that research, so that's something coming up in 2013.

So sort of on balance, our consultation effort has included both in-person sessions held in selected cities, as well as during key tribal events or conferences; a webinar format where folks can join remotely using a computer. This seems to be most appropriate when we have sort of a lot of information that we're talking about that people need to refer to. You know, if we're just talking about, you know, one or two handouts and people can look at them ahead of time, then our perception is a phone-based consultation is sufficient. If we're going to go through a whole slide deck on regs and rules and we're going to be referring to a lot of different topics and a lot of different handouts, that's why we try to use a webinar format. We recognize that that format might not work for everybody. There are constraints with technology and timing, but we thought it would be appropriate for those that could to participate in that venue at that time.

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So our experience is that, you know, all of these formats have worked well. We'd like to continue our efforts in 2013 to ensure that we can reach with you and, most importantly, connect with you to consult. We think that each of the formats has strengths and constraints. You know, we'd love to have enough money to travel around and meet with everybody individually on every topic. You know, we just have constraints as a federal organization on our travel and our ability to do that kind of work, and so we're hopeful that we can continue to work with you and explore sort of this multiplicity of mediums and try to strike that balance. So sometimes we're out there in person, sometimes we're doing phone, sometimes we might be doing webinar, and we're really looking for your ideas about how things work, how you'd like to see consultation, what we could do differently or better to make it as constructive a dialogue as possible.

We know -- or our intuition tells us that quarterly consultation schedule, using a conference call format, is a good baseline. It's good to have something to count on, to add agenda items to, that people can put on their schedules to look forward to, so we think that that's something we'd like to do in 2013, and then we'd like to supplement that, to the extent that we can, through these other types of venues.

One of your handouts should be our draft consultation schedule. You can see that we try to put them in midweek to avoid sort of the long weekend and holiday conflicts that happen, try to make it in late afternoon so we can catch people on, you know, all coasts and sides of the land. So that's, you know, just a frame of sort of what we're thinking and where we've been.

I'd really now like to have the operator, if you could assist us and go through the instructions again on how to make a comment, and we'd just really like to open the line for consultation and would really like to hear from you.

Thank you. As a reminder, it is "**1," and please state your name clearly when prompted. Again, "**1" and state your name. One moment, please.

Don't be shy.

As a reminder, from your phone line press "**1."

Again, any thoughts that you have about how you would like our consultation to work in the upcoming year. We're proposing that we do a quarterly call, as we've done this past year. We also intend to do in-person consultations on the FDPIR study. With those tribes that will be part of that study we're doing a sample. We're not choosing every tribe participating in the program, but we're doing a representative sample, and so we're going to try to meet with those tribes in person, and then our hope is to take advantage of other opportunities where there's gathering of tribal leaders, you know, where we can.

We don't have any big pieces of authorizing legislation coming up this -- in the foreseeable future, with the exception, possibly, of the Farm Bill. It sort of gets put on hold. So that could pop. We don't really know. So that could happen sometime this year, certainly after a Farm Bill passes we'll be organizing specific consultation sessions on that. But we're really looking for your thoughts. Any feedback on the way that we've done consultation or your preferences or thoughts on how to make it better.

And, sir, at this time, I have no one in the queue. As a reminder, "**1."

Thank you, operator. What I think I'll do is we have a number of agenda items and so I thought maybe what we could do is, while people are gathering their thoughts about consultation if they have any, feel free to at any point in the call, offer a comment about consultation. But to make sure that we're respectful of everyone's time and get through the agenda, I think we'll move now to our next agenda item.

We have proposed a rule that's open for comments. The rules for the Supplemental Nutrition Assistance Program, SNAP, formerly called "Food Stamps" here at the federal level and called something different all

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sorts of places across the country, and this rule is on retailer sanctions, and I'd like to invite my colleague, Elvira May, to review the rule for us.

Thank you. Well this is the proposed Retailer Sanctions Rule. It was published August 14th, and it's open for comment until October 15th. So if anyone, after I read this, has comments, I will give you the website and the docket number and then we invite you to go ahead and send in your comments. So here is primary focus of the proposed rule. It is to increase the penalty for the small number of SNAP authorized stores that commit the most serious broken violations, and that is the trafficking of program benefits. And by "trafficking," we mean primarily the exchange of program benefits for cash.

Also, the vast majority of authorized firms adheres to SNAP retailer rules and will be unaffected to the proposed changes to retailer regulations. Once finalized, the additional and stiffer financial penalties proposed in this rule would assist the department in further deterring retailers from violating program rules and take tough actions against them when they do.

So specifically what this rule would do, it would not only permanently disqualify a retailer who traffics but it would also assess a monetary penalty on top of the disqualification. So, currently, we can only do one or the other, so this new proposed rule would allow us to do both, disqualify and have monetary penalty. It would also add penalties to other specific non-trafficking violations, such as failing to comply with the electronic benefit transfer EBT regulations, violating the equal treatment of SNAP customer provisions, or conducting SNAP transactions without the EBT card being present. And finally, it would increase the amount of existing financial penalties.

So to reiterate, this proposed rule was published August 14th, you can comment until October 15th, and the website is WWW.REGULATIONS.GOV, and the docket ID number is [FNS-2012-0037]. Thank you.

Great. Thank you, Elvira. And, of course, in addition to submitting them at that website in writing, we welcome any of your comments here as part of this consultation process or any future consultations. So what I'd like to do now is open the session for any comments or consultation items you'd like to consult on. Operator.

As a reminder, "*1." Georgia Barros, your line is open.

Okay. What I wanted to find out was about the fund in, if there was going to be an increase for 2013? I know to be submitting our budget now is just the same as last year, as we were funded for.

Are you talking about the FDPIR program?

Yes. Yes.

Okay. I'm going to turn you over to my colleague.

Hi, Georgia. How you doing?

Pretty good.

Good. The question relates to is there going to be any increase in funding for -- I'm assuming your tribe in particular, when it comes to FDPIR and the admin funds?

Yes. Or all FDPIRs.

Well we go out in the spring with a correspondence with our regions, which lets them know what the President has requested under his budget proposal. Now as far as admin funds go, we do anticipate an increase, but at the same time, your region will negotiate each -- with you, the amount for your specific Indian tribal organization or state agency in FDPIR. So the reasons are provided in an amount based on

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a funding formula, and within that amount, they negotiate with each Indian tribal organization and state agency. And that also ties into the Administrative Funding Allocations Rule that was just published. That's the same funding methodology that we've been using now since 2008, fiscal year 2008.

Uh-huh.

Does that help?

No. We want the money.

Oh, understood.

Yeah.

Unfortunately, we don't have an appropriation yet to provide that money.

Oh, okay.

Congress hasn't decided its final numbers when it comes to the appropriation. We generally have a pretty good idea, and that's why your regional office will negotiate a budget with you in the interim.

Okay.

But we do have to wait until October 1 to see what happens with the fiscal year '13 appropriation. And then after that, we could be under a continuing resolution as they call it, where we could be provided a fiscal year '12 funding level or one of the congressional marks being considered.

Also, I was wondering, too, if, you know, like a capital expense, like either -- like our copy machine is going out and we've had it for a good ten years, and if it's something that we need, is there a chance to add it into the budget or just to put it as a wish-list item?

Absolutely I would recommend that you put it in your budget if you still have time to do so with your region. And even if you don't, it's good to advise your region that you have that need.

Okay.

Even if they couldn't cover it right away, they would know that there's a need out there to consider for future rounds.

Okay.

Great.

All right.

Thank you. Any other questions?

Yeah, thank you.

Sure.

Any questions or comments, consultation items about the SNAP retailer sanction rule, or any other topics.

Next we have Joanna Merrick. Your line is open.

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Hello.

Hello. My staff, Mrs. Barros, Georgia Barros just asked some of the questions, and very good key ones, and I know the deadline for the written response now, and that's some of the questions and concerns I had, so I'll be sitting down with Georgia so that we can get our position and concerns. One of them that I do have, will how the impact on early childhood development head start?

Okay. So just to repeat your question, so are you talking about the SNAP Retailer Sanctions Rule, or are you talking about something --

Well USDA, and maybe I'm way off.

That's okay. Way off out in left field again, the lower 48. But, SNAP, I understand, is going to oversee the Welfare Food Stamp Program as well?

Right. So your question is about funding for the Head Start Program?

Well, yeah, the impact that the USDA would have on funding the Head Start Program.

Sure. Yeah, we -- you know, the federal government is a big complicated place, and we don't expect anybody to understand it, even us, most of the time. But the Head Start Program is administered out of our sister agency, the Department of Health and Human Services, and so our rules and regulations and policies wouldn't have a direct impact on the funding of Head Start programs. We do have a program called the "Child and Adult Care Food Program" that does reimburse childcare facilities and organizations that provide childcare services for providing healthy meals to kids. And so that's really our intersect with Head Start. But it would be all around sort of that meal reimbursement, not around the general administrative funding.

Okay. Well that helps.

Sure.

Thank you.

Yeah. Anything else?

Next we have Red Gates, your line is open.

Hello.

Good afternoon, everybody. I apologize for being a little late. My name is Charles "Red" Gates. Red is a nickname. I'm the program director for the Standing Rock Food Drive Food Distribution Program, have been for the last 30 years. Good afternoon to everybody.

Good afternoon.

And I don't know the name of the gentleman who is facilitating the meeting, but I am the designee for Charles W. Murphy, the tribal chairman of the Standing Rock Sioux Tribe, and my first message from him is that our tribe, the Standing Rock Sioux Tribe does not consider these tribal consultation conference -- they consider them conference calls, and we've stated that before. But they're a good start in the right direction. And I hope sometime in the future he says that we can sit down and establish a real true government-to-government type of schedule.

So my question is -- or my comments on the change in the regulation for SNAP is it's a little bit of a nibble on the SNAP program. I'm not a big fan of the SNAP program, and I think many people know that. I think

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on our reservation it has taken our younger households from the Food Distribution Program and allowed them to make purchases of what we call "junk foods," and also it's very easy to cash them out, 50 cents on a dollar, and I see this proposed rule is aimed at the retailers. Good luck, that's all I can say.

I know of two places on our reservation that give back straight cash, and I'm glad that -- and I will report it. It's been reported to me, so I will be making use of this. But I know it's a proposed regulation. But my message is this, I'm not saying SNAP is a bad program. It's needed. But it's far from what we had to endure back in the '80s and '90s and still today. They still point fingers at the commodity program, Food Distribution Program for causing all of the health problems on Indian reservations. Well about 22 years ago, we started to make major changes in our food package, and we feel that today we have a very, very healthy nutritious food package. But SNAP still allows people to buy any kind of foods they want in any store they want, on or off the reservation, so that's why I said this little regulation here is just a little nibble. I would like to see something with a bigger bite on it restricting some of the purchases.

We have what they call "midnight madness" here on the reservation. Twan [PH] trucks come onto the reservation loaded, cars a mile long. We don't have that much population here on the reservation, but cars will be lined up a mile long to get into the family dollar or to the local grocery store, and they are people sitting outside waiting to -- they give a list to the recipient. They go in and buy what the purchaser wants, and they give them 50 cents on a dollar, and we know that's happening, and it's been reported, and I've talked with congressional people on it. But we know what you're facing there in Washington when you say it's a big thing.

But my concern is this; that SNAP needs to really, really be taking a good hard look at it on Indian reservations, because all of the work we've done in 22 years of trying to get them healthy again is being destroyed by what they're allowed to purchase. I apologize if I offended anybody with that, but that's the facts.

No. Thank you, Mr. Gates, very much. Again, my name is Duke Storen just so you know who you're talking to.

Okay. Thank you.

And your points are very well taken. We appreciate them, and we're going to take them into consideration, both about consultation, as well as the SNAP program. And we do encourage you to please report that. Like you, we take all fraud and improper payments and SNAP and all of our programs very seriously, and like you, we're very proud of the changes in the FDPIR food package that we've made over time, so thank you very much for --

I have one question for you.

Yeah.

When you get a report or whoever gets this report, how is it investigated and how are we to know the complaints and -- it doesn't operate like a court system, does it, that we know when and if something's been done or they've been investigated or whatever?

I'm going to let my colleague, Elvira, answer that. Thank you.

Thank you for your comments. And first of all, I'd like you to know that this is just one rule. We are working on many of them. And some of them involve, now, declines as well, sanctioning clients as well. So when somebody reports fraud, it goes to the field offices, and since that time it's confidential, it's being investigated, OIG becomes involved, and possibly a visit happens, and then a store, if a rule -- if a finding -- if there is a finding, then the store is notified. The store has so many days to respond. And then depending on the outcome, the store will be sanctioned, and you'll hear about that.

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But I also want you to know we don't only rely on people informing us. We also have other methods how to detect fraud. We have computer programs running. We're looking at patterns. We're doing all of these things. So we are working on all fronts, because it doesn't help anyone, the abuses, and it hurts everyone, so we're working very, very hard on that.

Thank you. That leads me to another question, because of the history that I have working here has gone from bad to worse. When our participants, households, our participating households come in, just this week two reports were made to me that younger family members ran out of food stamps and they're coming to their household to ask them for commodity items, their food items, so they're giving them up to these younger SNAP households. And I also received a call, he switched over -- a household switched over to SNAP, he was only getting \$18, and he wanted to know if there was some way I could help him with just enough food to get through this week before he got his veterans benefits. So those are the things that we face here.

And I know in the urban areas there's a bigger -- it's probably a bigger, bigger probably problem, but it bothers me particularly that -- and I know some people buy good food, healthy food, but it just bothers me to see these households, young households walk out of a store with nothing but junk food. And I read the report that says there's no such thing as unhealthy food, it's how much of it you eat. I understand that. But it just seems to me, over and over I've stated this, but nothing gets done. I just think that the SNAP needs to look real, real hard at restricting what they can buy. They need to enforce that on them, as well as they have on FDPIR. And I'm glad that they asked us to change our food package. We're proud of what we have here. Thank you.

Thank you.

Okay. This is Elvira again. And we hear what you're saying because we hear it from many people, and that's why we have a lot of educational programs. So we are trying to make changes through education. We're also authorizing many farmers' markets, so lots of clients are now going to farmers markets. We also have special programs where an organization assists, so if a family buys, let's say, \$20 of fresh fruits and vegetable, they get \$10 in kind, so they can buy ten additional items. It has to be fruit and vegetables and it is recorded, so there is a receipt. They cannot buy snackies and then get something else. So you buy fresh fruit and vegetables, you get something in kind.

We also have right now -- a program right now, and it's being tested in a grocery store, so that's coming as well. So we're working on many fronts on this, and hopefully we can make a change for everyone.

Great. Thank you. Are there other comments, either about the SNAP Retailer Sanction Rule or other consultation items that people would like to bring up.

Linda Walker, your line is open.

Good afternoon. I just wanted to reiterate everything that Red Gates said, and also on the consultation at the beginning, I should have stated the very same as Red, that the chairman Mr. Harry Smiskin, would welcome a consultation on a face-to-face basis also. But good going, Red, you said everything that the rest of us have always said and will always continue to say. That was it. Thank you.

Thank you very much.

And nothing further at this time in the queue.

Great. Let's move on and provide some important updates. The first update is on tribal participation in two of our programs, the Child and Adult Care Food Program, and the Summer Food Service Program. This information is not necessarily new, but it's reissued guidance to help ensure tribal participation in our programs.

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I'd like to turn it over to my colleague, Tina Namian, to review this information for us. Tina.

Thank you, Duke, and thanks for having me on the call. I'm happy to be here to talk to you about this memo that we recently put out. Under the Child and Adult Care Food Program, daycare centers and homes are required to be licensed, and in 1998 we issued guidance explaining that tribal childcare facilities that are licensed by tribal authorities meet this eligibility requirement. In late July of this year, on July 24th, we re-issued this guidance as a reminder to states and tribes of this option. We had been hearing that there were tribes that -- or state agencies that maybe weren't aware of it, and so because it came out a while ago, we wanted to re-issue it as a reminder. So it's not a new policy or a change in policy but just a reissuance of policy that's been in effect for a number of years now.

The memo also clarifies that tribal governments are recognized as public entities or local governments, meaning that tribal governments may sponsor CACFP daycare homes or centers and may sponsor Summer Food Service program sites, assuming other eligibility requirements are met. And, again, that's not new policy, that's always been the case, but that's just a clarification to make sure that everybody understands that.

We also included in the memo a series of questions and answers related to tribal participation in CACFP and SFSP that have come up over the last few years. We really wanted to have in one place many of the issues that we've heard from tribes and from other -- also from our conversations with the Department of Health and Human Services. I know they work a lot with tribes, and so some of the questions came from them. So we wanted to have one place where we had a lot of our guidance around tribal participation in our programs. And we hope that the memo will also encourage state agencies to work closely with tribes to ensure that barriers to participation in the Child and Adult Care Food Program and the Summer Food Service Program by tribes are addressed.

I'm happy to take any questions about the memo. I think you all received it and the materials, along with the agenda, so if anyone has any questions, I'd be happy to take those.

As a reminder, from the phone line, "1." We have Forest Ferris [PH]. Your line is open.

Thank you. I meant to jump in on the open discussion. This new settlement with the federal government and our tribes is bringing in -- one of our tribes is issuing at least \$10,000 per tribal member. We're going to have multiple family members per household. Because the final rule is has not come through, we know that a lot of this money is going to end up in savings accounts, and I guess I'm very disappointed that we knew we had to count it as income the month it was received, but when you get that kind of money, you know it's going to end up in a savings account, and now we're going to have FDPIR tribal people not eligible for the FDPIR program, which has the healthiest eating index, and as a policy or program that USDA has to try to cut out childhood obesity, type II diabetes, all these other medical issues that the tribes have much more frequently than the general population, we're going to have people that are no longer eligible for FDPIR but still eligible for SNAP, and we need to do something immediately to take care of this issue.

But I guess we can't wait for congress to take issue on the final rule, and I don't know why we can't get an executive order issued like was done in the first place with the SNAP program to eliminate the resource test.

Great. Very, very thoughtful and important comment. I'm going to turn it over to Dana Rasmussen from the program to follow up.

Thanks. Thanks, Forest. We've had -- we've gotten inquiries with regard to this specific issue, and I think we've seen news reports about a very large settlement out there, and it's actually a combination of settlements that have come through. Without a law saying that these payments must be excluded as income and/or resources, we have to include them as such when it comes to FDPIR.

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I can't speak to SNAP, and I know that there are -- and we're trying to align our regulations with SNAP when it comes to the income deductions and resource eligibility final rule. That is getting relatively close to full clearance and publication. I know it doesn't provide relief for somebody that's getting a payment today, but at the same token, we're hoping that it clears within the next couple of months. Can't provide any guarantees, but at the same time, that would help, and the way that helps is it would eliminate the resource test from FDPIR.

And, Dana, I appreciate that, but this could be a program killer as far as I'm concerned. We're already losing people to SNAP, which as Red so aptly pointed out, is such an unhealthy program that these people will automatically jump from our program to SNAP, and there's no guarantee they're ever going to come back, and I just don't think this is an appropriate way for this program to possibly see its participation numbers tank.

I understand. Thank you, Forrest.

Any other questions about the Child and Adult Care Food Program and the Summer Food Service Program or comments about any consultation items, including consultation itself, or the SNAP sanctions rule?

Sir, I'm showing nothing from the phone lines at this time.

Great. We'd like to provide another update we think you'd be interested in on a final rule we published just about a week or so ago. This final rule is on the administrative funding allocations for the FDPIR program. I'm going to turn it back over to Dana.

Hi, everyone. Yeah, this final rule was published back on August 23rd. It's entitled "Food Distribution Program on Indian Reservations, Administrative Funding Allocations." You can get a copy from the Tribal Affairs page or you can go to REGULATIONS.GOV and then type in the title, and I'm sure that it will pop up. The final rule amends FDPIR regulations at 7 CFR Part 253 regarding the distribution of FDPIR administrative funds to the FNS regional offices from here at National Office. And then the regions further allocate that those moneys to the ITOs and state agencies that administer FDPIR -- and when I say "ITO," I mean Indian Tribal Organization.

These amendments are intended to ensure that FDPIR administrative funding is distributed to FNS regional offices in a fair and equitable manner. This funding methodology is not new. It was first piloted back in 2008, and every year since. The methodology is based, in large part, on input from a workgroup comprised of tribal and state-appointed FDPIR program directors representing the National Association of Food Distribution programs on Indian Reservations or NAFDPIR, and its membership, which considered input from tribal and state officials during four face-to-face meetings across the country back in 2007. So the final rule will also revise FDPIR regulations to clarify current program requirements relative to the allocation of administrative funds.

When we proposed the rule, the majority of the comments we received were positive, so we implemented the final rule without change. In other words, the pilot that we've been doing since 2008 with regard to administrative funding allocations remains the same. It's just been formalized in regulation.

So any questions for Dana on that, or comments on any consultation topic? Operator, do you have anybody in the queue?

I'm showing no one in the audio queue. As a reminder "**1."

I'd like to revisit some of the comments about consultations that came to us earlier as part of our dialogue. So a couple of the comments were -- and pardon me if I don't paraphrase this in the way that you intended, but that while these conference calls might be positive and good venue for sharing information, that they're not consultations, per se. And so I'd just like to explore that a little bit more

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because we do take consultation very seriously at USDA and here at FNS. And so I'd like to hear more from you about what you do consider consultation. What does constitute consultation from your perspective? Does it have to be face-to-face? Is face-to-face the only venue that would constitute consultation, or would there be other venues or other ways to have this dialogue that would constitute consultation? So either Red or anybody else, we'd really like to hear from you.

And we do have Red Gates. Your line is open, sir.

Thank you. I buzzed in on the administrative funding final rule publication, but I guess we can cover both at once. We were one of the tribes that commented on not agreeing with the administrative funding final rule publication. Two times we were allowed to make comments, and our comments were that we still wanted full negotiation. And the only question I had on that and my chairman had told me to ask is when you get those comments from tribes or any tribal agencies or whoever administers the program, do you get back to them on the tribes that's making these comments? Do you follow up and in any way, I guess as a form of a little more formal consultation with them? I know there weren't a lot of comments. I think there were a few on the previous time.

The reason I say this is that I sat on the Funding Allocation Workgroup, and one of our main recommendations to Roberto Salazar at that time was that they consult with tribes face to face, government to government. That did not occur. So, again, they both go hand in hand. Tribal consultation, to our tribe, and I think many tribes in our area and our area, the Great Plains area, states that when you're making a major change in regulation or legislation, which we felt funding formula was, they want face to face. And it doesn't have to be with each tribe. I think other agencies have sat down with the tribes in our area, Aberdeen area it's called -- it used to be called. I think it's Great Plains. They meet with the tribal leaders, the elected tribal leaders because they make the decisions for our tribes.

As a program director, we can't make that decision, "Yes, it's okay." So we submitted our comments in hopes that there would be some follow up with our tribe. That didn't happen. Those are my comments.

Great. Thank you very much. I know that for any comments that we receive about a rule, about a regulation, if we do speak to those comment in the preamble to that rule, as far as individual follow up on each of those comments, that is not something that we're doing right now. But I think that's a really good and thoughtful suggestion for us to look at our process to see how we're doing it. I know that we do have a number of -- we have had over the last couple of years, a number of consultation sessions that happen in person that I think would fit sort of that category of its not each tribe individually but it's a venue for multiple tribes to do consultations. And, you know, certainly any time that we have those we're open to consultation about the funding formula or any other topic.

So, you know, I just want to reinforce that as we sort of move forward and publicize opportunities for consultation, that we are welcoming -- and when we have those face-to-face opportunities that we're welcoming your agenda items and the things that you want to consul on. And even if we don't get them ahead of time, we're happy to consult on them at that time. So as we go out in the future, we hope that we can sort of meet that expectation for providing venues for face-to-face consultation. So thank you.

Other thoughts about consultation, whether there's any venues other than face to face that other tribes could share a different perspective on? We have actually heard sort of a variety of input on our different venues for consultation, and certainly, face to face only is one perspective that we've heard. And we've also heard that phone consultation is acceptable. We've heard a lot of comments about wanting to have plenty of advance notice and materials ahead of time, sometimes the need for some more education about our program so that an appropriate context is provided for consultation. But, you know, we do welcome input. I'm hoping we might get some more on today's call.

Next up, we have Tony. Your line is open.

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Good afternoon, Tony Nertoli with Midwest Region Food Distribution Programs. I listened to Mr. Gates' comments with a lot of interest. But my question does not deal with that. I would like a definitive answer. We're on the private vendor project and also on the changes under 253 for medical allowance and household expenses. My perspective is that, you know, it has a huge, huge -- both of them have a huge, huge impact on our programs, on participation, and I'm sure Mr. Rasmussen can tell you that, from coming from the national, that we're not competing with SNAP on the same basis in terms of what we can allow and in terms of other programs in the regulation changes. It seems like it's taking forever, and my opinion is that it's like a stonewall. You guys are doing it slow or it's not very important. That's the feeling that some of the tribes and people here, and I'd like a definitive answer on those two questions, please.

Well, Tony, Dana Rasmussen again. I agree, it feels like it's taking forever. As far as the rule goes, the income deductions and resource eligibility rule, we do have a clearance process that we have to go through, and then make sure that, you know, all of our I's are dotted and T's are crossed and that everybody has seen the rule. I can say that it is nearing clearance, and we hope to have it out there very quickly.

You mentioned, as well, the regional vendor model, the regional vendor pilot. Right now we're in the evaluation phase, and, in fact, we're in what's called the "consensus phase," where the panel has evaluated the proposals that have been received and now is developing consensus, and that's where we stand with that. So, again, there is light at the end of the tunnel. It does take some time, and we appreciate your patience.

Okay, Dana, in terms of the panel, who participates on that?

I cannot provide names on the panel. It's a rule that I'm prohibited to do so.

It's part of our procurement laws.

What organizations then? I'm not concerned about individuals but organizations. Tony, if I were certain as to the rules I could tell you that, but I'm not.

Yeah. It's just -- it's procurement. It's our procurement rules that prohibit us from talking about the process and the panel and those kinds of details around procurement. So we're sorry we can't share that information with you.

Any other comments or questions about the updates that we've had or consultation in our upcoming consultation for 2013?

Next up we have Gregory. Your line is open.

Yes, thank you. Good afternoon. I was listening with great interest and appreciate the opportunity to observe or make some observation. In listening to the notion of how the eating index for FDPIR is so well received by the USDA in its report to congress in special nutrition programs number FD-08-FDPIR, where it actually does disclose the healthy eating index for FDPIR as 82 out of 100, and the lower number of what's 51 out of 100 for SNAP, it seems to fly in the face of defiance that -- or logic to some degree -- that FDPIR would be faced with so many different inequitable policies in relation to certifying clients, and it's nice to know that the three proposed rule changes are coming down to help provide more equity. And I just wanted to echo what I've already heard from other tribal directors related to that.

It appears as though we have a very healthy food package, yet we're finding it very difficult, if not completely impossible, to find a way to go beyond the bureaucracy to make this more equitable and eligible for applicants who are actually in need of or wanting to participate in this program. So I just wanted to make that observation, and I'll reserve my further comments for later. Thank you.

Great. Thank you very much. We really appreciate your comments.

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Next up we have Georgia. Your line is open.

Okay. Hi. This is in regard to the consultation for year '13, 2013. Why cannot a group attend like at the regional meetings, and that way, you know, like the Western region has 35 tribes and you could hear comments and everything all in one set, and same with the other regions, so prior to the national. I'd like to, you know, recommend that.

That's a great idea. Do you think that tribal leaders would come to that conference, or are they already coming to that conference?

I'm sure some are, you know, and I think if there's something that's going to happen with that, I'm sure more leaders, you know, would attend.

Great. That's a great idea. Thank you very much. Really appreciate it.

Okay.

And I'm showing nothing further in the queue at this time.

Great. Well thank you all, again, for joining us today. We look forward to our year together and to meeting regularly. And we really appreciate all your thoughtful comments today and questions. We take those very seriously. We will continue to go back and look at our consultation process and try to be as responsive as we can and really find those venues for really good constructive open dialogue on working with you to meet the needs of all those Indian Country as it relates to food and nutrition.

Just as a reminder, our next meeting will be on November 7, 2012, at 3:00 p.m. Eastern Time. We'll send out a reminder notice, and you can always check our tribal webpage for additional information, and that's WWW.FNSUSDA.GOV/FNS/TRIBAL, and that address is on a lot of the correspondence that we sent to you and confirmations. And we hope that you're a user of computers so you bookmark that page and check that every once in a while. So, again, thank you so much. We really appreciate it. And have a wonderful afternoon.

This concludes today's conference. You may disconnect at this time. Thank you for your participation.