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General Accounting Office
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Resources, Community, and
Economic Development Division

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Congressional Recipients

Currently, state agencies provide Food Stamp Program benefits to households on Indian reservations. An Indian tribal organization may administer the program on its reservation if it demonstrates that (1) it is capable of administering the program and (2) the state agency is ineffective in providing program benefits. To date, no tribal organizations have exercised this option.

Public Law 103-225 (sec. 103) requires GAO to study the feasibility and desirability of modifying or eliminating existing conditions for tribal organizations to administer the Food Stamp Program on their reservations. As subsequently agreed with your offices, this correspondence provides information on (1) the degree of interest that Indian tribal organizations have in administering the program, (2) the barriers that would prevent these organizations from administering the program, and (3) the cost and other implications that would arise from tribal administration of the program.

There are about 320 federally recognized Indian tribes in the continental United States. Much of the information we gathered on these issues summarizes the views of officials from 40 tribes in seven western states. These tribes represent nearly 50 percent of the Indian population in the Bureau of Indian Affairs service areas.

In summary, we found the following:

- Tribal officials generally were unfamiliar with the federal regulations governing the administration of the Food Stamp Program and indicated little interest prior to our inquiry in administering the program on their reservations. Because they were unfamiliar with the operation and administration of the program and had not given much previous thought to administering it, these officials were unable to do more than express an interest in having their tribes explore the advantages

and disadvantages of tribal administration of the program.

- After we provided tribal officials with an overview of the major requirements for operating and administering the Food Stamp Program, they told us that two major barriers would prevent serious consideration of tribal assumption of administrative authority for the program. These are (1) the current statutory requirement for administering agencies to share with the federal government in the cost of administering the program and (2) the potential penalties that the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS)¹ can impose on administering agencies for high program error rates in determining applicants' eligibility and benefit amounts.

Tribal officials also told us that their tribes would have to resolve problems involving the lack of a basic infrastructure and the lack of qualified staff to administer the program. In addition, tribal officials said that they would want to modify certain program regulations to better meet the needs of Indian clients.

- Tribal administration of the Food Stamp Program could have significant cost and other implications for the federal government and for others. The costs of program benefits would likely increase, particularly if tribal organizations were allowed to make modifications to the current program that would result in increased participation in the program and greater benefits for those enrolled. The program's administrative costs would also increase. These costs would include (1) the expenses incurred by USDA to help set up the administrative infrastructure and provide the training necessary for the tribes to take over the program, (2) the additional costs to administer benefits through the tribes rather than through already existing state agencies, and (3) the higher administrative costs for FNS to oversee and manage the increased number of agencies distributing Food Stamp Program benefits.

Because a tribally administered program would be separate and apart from other social assistance

¹On Oct. 20, 1994, the Food and Nutrition Service was renamed the Food and Consumer Service.

programs administered by the states, the tribes and the states would also incur costs for coordinating and sharing information on program recipients who participate in both a tribally administered Food Stamp Program and state-administered assistance programs. In addition, state officials noted that tribal administration of the Food Stamp Program would place a burden on food stamp recipients participating in both a tribally administered Food Stamp Program and state-administered assistance programs by requiring the recipients to file separate applications and deal with separate offices.

Your offices also asked us to provide you with information on several other issues related to the Food Stamp Program: (1) states' implementation of the statutory requirement to consult with Indian tribes on state food stamp plans of operation, (2) the possibility that tribal members would simultaneously participate in both the Food Stamp Program and another USDA food assistance program targeted to Indian reservations--the Food Distribution Program on Indian Reservations,² (3) the problem involving the definition of Indian lands in Oklahoma, and (4) the history of the previous Navajo inquiry into administering the Food Stamp Program. Information on these additional issues is contained in enclosure I.

BACKGROUND

The Food Stamp Program (FSP) is the cornerstone of USDA's food assistance programs. It is the country's largest provider of food assistance and one of its most extensive welfare programs. The program provides monthly allotments of coupons, or stamps, to eligible low-income households to supplement their food-buying power. The coupons are redeemable at retail food stores. Eligibility and benefit amounts are based on household size and income, assets, housing costs, work requirements, and other factors. In fiscal year 1993, enrollment in the program averaged 27 million individuals a month and cost \$25 billion. About

²This USDA program provides monthly food packages to individuals living on or near reservations who choose to participate in this program as an alternative to the Food Stamp Program. This program is administered by tribal organizations and by some state and local agencies.

400,000 Native Americans received food stamps, for a total of over \$300 million annually in program benefits.

The FSP is administered nationally by USDA's FNS and locally by state welfare agencies. The Food Stamp Act of 1977, as amended (7 U.S.C. 2011-2032), provides full federal funding for food stamp benefits. The basic day-to-day administrative expenses for managing the program and delivering benefits are normally shared on a 50/50 basis by the federal government and the states. The costs of administering the program on Indian reservations can, however, upon a state's request and FNS' approval, be shared on a 75/25 basis, with the federal government paying 75 percent of the administrative costs. Six states currently receive this enhanced match.³

Under the Food Stamp Act of 1977, as amended, an Indian tribal organization may, with FNS' approval, administer the FSP on its reservation if the Secretary of Agriculture determines that (1) the state agency is failing to properly administer the program on the reservation and (2) the tribal organization is capable of effectively and efficiently administering the program. To date, no tribes have exercised this option.

LEVEL OF TRIBAL KNOWLEDGE AND INTEREST

Tribal officials we contacted generally were unfamiliar with FNS' requirements for operating and administering the FSP and the costs of running it. Prior to our inquiry, they had not given much thought to administering the program. Their unfamiliarity with the program made it difficult for them to do more than express an interest in having their tribes explore the advantages and disadvantages of tribal administration.

The tribal officials we contacted were not actively seeking to administer the program and did not appear to see tribal administration of the program as a major concern or goal. Our inquiry may have stimulated the interest of some officials in having their tribes consider tribal

³These states are Arizona, Montana, New Mexico, North Dakota, South Dakota, and Wisconsin. They receive 75 percent of the cost of administering the FSP on Indian reservations. In fiscal year 1993, this federal cost share amounted to about \$4 million.

administration of the FSP. However, the officials generally agreed that before the tribes could decide on administering the FSP, they would have to (1) know a great deal more about the program, (2) consider any modifications they would like to make or be allowed to make to the current program requirements, and (3) determine the benefits to their people of tribal administration.

What limited interest tribal officials did express appeared to stem more from considerations of Indian sovereignty and tribal desires for self-determination than from basic problems with the current administration of the FSP.⁴ Three separate governmental authorities--the federal government, the states, and tribal organizations--have an interest in the provision of federal food assistance to Native Americans. Some tribal officials believe that, as sovereigns independent of the states and having a direct relationship with the United States, the tribes ought to deal directly with the federal government on a national program that affects Native Americans. By administering the FSP, Indian tribal organizations would work directly with federal authorities and would not depend on the states for FSP benefits. These tribal officials noted that the general policy favoring self-determination would be a factor in tribal decisions on this issue.

The tribal officials also generally believed that if tribes were to administer the FSP, they would make the program more accessible to its clients and would be more sensitive to the cultural differences of Indian people. They also said that a tribally administered program would encourage greater participation in the FSP by expanding outreach and itinerant services and by adding more, and more conveniently located, food stamp offices. One tribal official said that tribes would reduce and streamline paperwork requirements. The tribal officials added that

⁴The United States has historically viewed Indian tribes as retaining an inherent sovereignty over their internal affairs, subject only to modification through treaties or legislation of the Congress. In addition, federal policy favors Indian self-determination and self-governance--principles that encourage participation by Native Americans in the planning, conduct, and administration of programs and services that affect them. See the Indian Self-Determination and Education Assistance Act of 1975, as amended, 25 U.S.C. 450a.

they would want to provide nutrition education through the FSP and would want to prohibit the purchase of snack foods with food stamps. One tribal official also saw the FSP as providing tribal employment opportunities.

BARRIERS TO TRIBAL ADMINISTRATION OF THE FSP

After we provided tribal officials with an overview of the major requirements for operating and administering the FSP, tribal officials said that because of limited financial resources their tribes would not be interested in administering the FSP under current program statutes and regulations. As barriers to their assumption of administrative authority, these officials expressed specific concerns about (1) the costs that the tribal organizations could incur as their share of administering the FSP, (2) the possible financial penalties they might incur because of high error rates in determining applicants' eligibility and benefit levels, and (3) the costs to develop the basic infrastructure and train the staff necessary for program administration. They also pointed out modifications to the FSP requirements that they would want to make to better meet the needs of Indian clients. The officials generally agreed that any potential interest in tribal administration of the FSP would depend on these modifications.

Resource Limitations

The major obstacle to tribal administration of the FSP is limited tribal financial resources. Most tribal officials we contacted said that their tribes would need relief from the requirement to share 50 percent of the costs of administering the program. Their financial support requirements for considering the assumption of administrative responsibility included the federal government's paying from 75 to 100 percent of the costs of administering the program and counting tribal in-kind contributions toward the match requirement (e.g., counting the value of tribal-provided office space used in the program as part of the matching contribution).

Almost all of these officials also said that their tribes would need relief, particularly in the early years of any tribally administered program, from financial penalties for high error rates in the distribution of food stamps. FNS annually evaluates the accuracy of state FSP caseworkers in determining applicants' eligibility for and level of food

stamp benefits. States with high error rates are subject to a federal sanction that reduces the federal matching benefit. Some tribal officials proposed phasing in the imposition of sanctions for high error rates.

Tribal officials also said that other financial barriers, which may not apply to every tribe or may exist in varying degrees, include inadequate or nonexistent infrastructure (office space, furnishings and equipment, and power and data transmission lines) and the cost to develop qualified staff for administering the program. Tribal officials generally believed that the federal government should be responsible for providing the necessary financial assistance, training, and technical support to get them started in administering the program.

The tribal officials generally said that without financial concessions, the cost of tribal administration of the FSP would be prohibitive or would, as officials from two of the tribes noted, require tribes to reduce or eliminate already limited funding for ongoing tribal programs.

Program Modifications

Tribal officials we contacted also identified a number of modifications to the FSP that would have to be made before they took responsibility for administering the program. Although tribal officials suggested some of these modifications on the basis of the program overview we had provided to them, most were based on experiences their tribal members had encountered in applying for FSP benefits. Identified modifications included the following:

- Liberalize the definition of "household" so that families sharing a domicile and preparing meals together can individually--rather than collectively, as is now the rule--qualify for food stamps.
- Liberalize the income and asset determination rules to make more households eligible for food stamps.
- Modify the vehicle valuation thresholds that are counted against household resources in determining program eligibility and benefit amounts so as to better reflect the cost of the type of vehicles needed to meet the transportation needs of Indian clients in isolated areas.

- Eliminate the prohibition against simultaneously participating in the FSP and the Food Distribution Program on Indian Reservations so that Indian clients can receive a combination of benefits from each of the programs.
- Allow the tribes to decide on the client population they will serve on or near their reservations, since in many cases nontribal members or non-Indians also live on the reservations.
- Define Oklahoma's "Indian Lands" as Indian reservations. As discussed in enclosure I, there are no Indian reservations in Oklahoma. Thus, if a decision were made to limit tribal administration of the FSP only to tribes residing on reservations, Indian tribal organizations in Oklahoma would not be afforded the opportunity to administer the FSP.
- Streamline the application process for participating in the FSP.
- Prohibit the purchase of snack foods with food stamps.
- Institute a nutrition education component in the FSP that focuses on the medical problems prevalent in the Indian population.

In our view, such modifications are feasible but would require regulatory action to implement. As discussed in the following section of this correspondence, the bigger issue may be the increase in benefit costs that would result from these modifications.

Tribal officials also pointed out that without some type of controlled test, such as a pilot program, they could not know how extensive the modifications would need to be or how much additional federal financial assistance they would need. A pilot program would allow the tribes to (1) familiarize themselves with the program and processes, (2) identify the needed resources and costs of managing the program, and (3) make the transition to administering the program. Federal and some state officials also said that a pilot program would allow the federal government to identify early on any problems with tribal administration of the program and to take corrective actions before the federal government committed extensive resources to a revised program.

COST AND OTHER IMPLICATIONS

Neither FNS nor state officials could provide us with an estimate of the cost of having tribes administer the FSP, nor were they aware of any studies that had been done on this subject. They did, however, agree that both program benefit and program administrative costs would increase-- and that these increases could be substantial. These increases would depend on the number of tribes that elected to administer the program and the modifications that would be made to better meet the needs of Indian clients. In addition, these officials noted that tribal administration of the program would result in additional burdens on the states and tribal organizations and on some program clients.

Program Benefit Costs

Tribal administration of the FSP would most likely increase both participation in the program and the costs of program benefits. Tribal officials told us that additional Indian households would apply for program benefits if tribes were to administer the program. Some Native Americans, we were told, do not participate in the FSP because they are uncomfortable dealing with state agencies but would apply for food stamps if their tribe were to administer the program. Tribal officials also said that some households currently participating in USDA's Food Distribution Program on Indian Reservations would switch from that program to the FSP if tribes were to administer the FSP.

The costs of program benefits would also increase if the current program were significantly modified to provide additional benefits to Indian clients. As previously noted, tribal officials would want to revise certain program rules and regulations in ways that would increase participation and benefits.

Also, as previously discussed, tribal officials said that if their tribes administered the FSP, they would improve services by adding outreach and itinerant services, adding more and more conveniently located food stamp offices, and streamlining the application process. These changes would also increase participation in the FSP and, consequently, the costs of program benefits. FNS officials could not estimate the increased costs of these program changes.

Finally, granting tribal organizations relief from the penalties imposed for high error rates, which the tribes believe would be necessary, would reduce incentives to minimize overpayments, thereby likely increasing the costs of program benefits.

Program Operating Costs

Tribal administration of the FSP would also cause operating costs to increase. For example, FNS officials stated that start-up costs for a tribally administered program could be significant, and tribal officials told us that some tribes would need help from USDA to fund these costs. These costs include expenditures for required office space and security facilities, computers and office equipment, vehicles, supplies, furniture, power and communication lines, and the hiring and training of program staff.

In addition to the start-up costs, the day-to-day costs of administering the FSP would increase if tribal organizations administered the FSP on Indian reservations. Administrative costs would increase because the economies of scale in having a single organization administer the FSP in each state would be lost. Federal and state food stamp officials told us that the FSP is a complex program with relatively high fixed costs and that their day-to-day administrative costs would not decrease significantly if they no longer provided FSP benefits to Native Americans. The fixed costs of administering the program would be incurred by each tribal organization taking over the program and would be in addition to the current costs of providing benefits in each of the states. Also, any additional or improved services that would be provided by the tribes, as previously discussed, would increase the costs of administering the program. The federal government would underwrite, or contribute to, these additional costs of administering the FSP.

Increased costs would also result from larger federal contributions to the cost of administering the FSP. As previously noted, most tribal officials said that because of limited tribal resources their tribes would need relief from the current 50/50 administrative cost-sharing

requirement.⁵ Increased contributions for tribally administered programs would increase federal costs.

Finally, FNS' operational costs--to develop and administer the revised program and to monitor the increased number of administering agencies--would also increase. The amount of the increase would depend on the number of tribes that wanted to administer the FSP. Currently, 53 state or territorial agencies administer the FSP under FNS' oversight and management. According to FNS headquarters and regional officials, tribal administration of the FSP would place an additional operational burden on their current staff and could have significant budgetary implications for the agency. They stated that adding administering agencies would affect their ability to oversee the complex program requirements and to comply with legislatively mandated monitoring requirements. In addition, FNS would need to prepare new regulations to meet the needs of tribes. In order to meet these new demands, FNS officials said they would have to increase staff and resources.

Other Implications

State officials said that uncoupling the FSP from other federal and state assistance programs--such as Aid to Families With Dependent Children--that are often administered jointly by the same state agency caseworkers would also have cost and other implications for states, tribal organizations, and recipients. For example, separately administered FSPs would require state and tribal program managers to establish and maintain information management systems to share and coordinate data on clients' benefits, income, and household composition to ensure that appropriate benefits were being paid and to prevent dual participation.

In addition, a greater burden would be placed on Indian clients enrolled in multiple assistance programs. Currently, most state welfare agencies require program participants to visit a single office and file a single application to qualify for benefits for a variety of social welfare programs. However, Indian clients participating in

⁵As previously noted, six states currently receive 75 percent of their cost of administering the FSP on Indian reservations in their states.

a tribally administered FSP as well as state-run assistance programs would have to visit both the tribal and the state welfare offices to file separate applications and to report income and asset changes to both the tribal and state offices. Having to file separate applications and to visit and deal with separate offices in different locations conflicts with the states' movement to "one-stop shopping" for those receiving assistance. One-stop shopping simplifies the application process for social service benefits and reduces barriers for clients with limited access to transportation. Dividing assistance programs between two administrative entities would reintroduce these barriers for Indian clients.

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To conduct this study, we discussed relevant FSP issues with officials from 40 tribes in Arizona, California, Montana, New Mexico, Oklahoma, South Dakota, and Washington State. These tribes represent nearly 50 percent of the Indian population in the Bureau of Indian Affairs service areas. (Enclosure II provides information on the tribes that we contacted and the Indian population represented by these tribes.) We also contacted officials from 13 additional tribes in these states, representing another 6 percent of the Indian population, but we did not succeed in getting responses from them.

In addition, we discussed relevant issues with representatives of the Arizona Inter Tribal Council and the Navajo Nation's Washington, D.C., office; officials from the state welfare agencies in Arizona, Idaho, Montana, New Mexico, Oklahoma, South Dakota, and Washington State; officials from FNS' headquarters, Western and Southwestern regional offices, and various area offices; officials from the Department of the Interior's Bureau of Indian Affairs headquarters and field offices in Arizona and Oklahoma; officials from the Congressional Research Service, the Center on Budget and Policy Priorities, and the American Public Welfare Association; and various tribal consultants. We also reviewed pertinent program documents, regulations, and legislation. Our work was conducted between May 1994 and November 1994 in accordance with generally accepted government auditing standards.

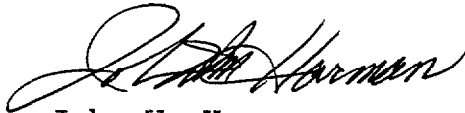
We discussed the information in this correspondence with the Acting Director, Program Accountability Division, FNS' Food Stamp Program, and other agency officials. They

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agreed with the facts presented in this correspondence, and we have incorporated their comments where necessary.

A list of the congressional recipients of this correspondence follows. We are also sending copies of this correspondence to the Secretary of Agriculture and other officials within the Department of Agriculture. We will make copies available to others upon request.

We hope that this information is helpful to you. Please contact me at (202) 512-5138, or Jim Fowler, Assistant Director, at (202) 512-9819, if you or your staff have any questions about the information in this correspondence.



John W. Harman
Director, Food and
Agriculture Issues

Enclosures - 2

List of Recipients

The Honorable Patrick J. Leahy
Chairman

The Honorable Richard G. Lugar
Ranking Minority Member
Committee on Agriculture,
Nutrition and Forestry
United States Senate

The Honorable Daniel K. Inouye
Chairman

The Honorable John McCain
Ranking Minority Member
Committee on Indian Affairs
United States Senate

The Honorable E (Kika) de la Garza
Chairman

The Honorable Pat Roberts
Ranking Minority Member
Committee on Agriculture
House of Representatives

The Honorable Bill Richardson
Chairman

The Honorable Craig Thomas
Ranking Minority Member
Subcommittee on Native American Affairs
Committee on Natural Resources
House of Representatives

OTHER INFORMATIONSTATE CONSULTATION WITH TRIBES ON FOOD STAMP PLANS

Under federal legislation,⁶ prior to submitting their food stamp plans of operation to the Secretary of Agriculture for administering the Food Stamp Program (FSP) on all or part of an Indian reservation, state agencies must consult with the tribal organization about the state's plan for implementing the program for members of the tribe. The law further requires the states to implement the program in a manner that is responsive to the needs of Native Americans on the reservation as determined by ongoing consultation with the tribal organization. We found that state, tribal, and regional Food and Nutrition Service (FNS) officials were generally unaware of this requirement. Both state and tribal officials agreed that there has been no formal consultation between the tribes and the states on FSP plans and that there is little tribal contact with the FSP beyond the local service level. State officials did say that they informally consult with tribal officials in a variety of ways, such as communicating from day to day at the local level on subjects such as program issues and office hours, exchanging information to prevent simultaneous participation in both the U.S. Department of Agriculture's (USDA) Food Distribution Program on Indian Reservations and the FSP, and inviting tribal officials to participate in conferences where program policies are discussed. They also noted that states have established Indian desks or Indian affairs offices whose function is to consult and coordinate with tribal groups.

We also found that state plans of operation generally consist of fairly standardized documents, such as organizational charts, federal/state agreements, agreements between the states and their contractors, work registration and job search agreements, disaster plans, drug-free workplace and anti-lobbying certifications, fraud control plans, and implementation plans for alien verification. State officials told us that their plans are written to comply with federal regulatory and administrative requirements and that they are not strategic documents outlining goals and objectives for food stamp operations. They added that state plans contain "boilerplate" language as required by regulation and leave little flexibility for negotiation. Federal legislation does not require state FSP personnel to file further documentation unless there are amendments or alterations to the state's plan or changes that may conflict with recipients' rights and levels of benefits. When such changes do occur, state officials said they notify the public

⁶7 U.S.C 2020(d).

through public hearings and/or through notifications to the general population. Some states, like Oklahoma, provide notification to special interest groups, including tribal organizations.

DUAL FOOD PROGRAM PARTICIPATION

Tribal representatives believe that Indian people would be better served if they were allowed to participate simultaneously in both the FSP and the Food Distribution Program on Indian Reservations. Dual participation would allow Indian clients to supplement the selected commodities they receive through the distribution program with the wider variety of food items they can purchase in grocery stores through the FSP. Tribal representatives were undecided on how this dual participation would be accomplished or whether a new program should be designed combining the best features of both programs. Some commodity program managers see the FSP as competition; however, other tribal officials see administration of the program as an opportunity to provide additional services to their people and to promote tribal self-determination.

Currently, according to tribal officials, Indian clients switch between programs when they need food items other than those offered by the commodity program or when they are temporarily ineligible for food stamps because of changes in income and/or household composition. The commodity program offers greater benefits and imposes less stringent eligibility criteria on clients. However, the benefits are limited to food items offered by USDA through its commodity program. In contrast, the FSP offers a wider selection of foods in grocery stores and opportunities for better nutrition. According to tribal officials, the FSP appeals to younger clients because they like the wider selection of foods available. Older clients participate more in the commodity program because they prefer to accept assistance from tribal members. Tribal officials believe that participation and nutrition on the reservations would improve if the FSP and commodity programs were combined to form one program that (1) offered a variety of foods, (2) used the eligibility criteria of the commodity program, and (3) was administered by the tribe.

CONCERNS OF INDIAN TRIBES IN OKLAHOMA

Tribal officials in Oklahoma raised two issues about their state that would affect their ability to assume administrative responsibility for the FSP. First, if tribal organizations were limited to administering the FSP only "on reservations," tribal organizations in Oklahoma would be excluded from administering the program. The Food Stamp Act of 1977, as amended, provides that, under certain circumstances, Indian tribal organizations may

administer the food stamp and food distribution programs on a reservation, which the act defines as a "geographically defined area or areas over which a tribal organization . . . exercises governmental jurisdiction." This definition is not well suited to Oklahoma, which, as a result of its history, has no established or formal reservations. Instead, Indians and non-Indians live side by side throughout the state. Food program benefits are provided to Indian households in Oklahoma on the basis of FNS "service areas," which are generally based on pre-1890s Indian territorial boundaries. FNS officials confirmed that authorization for program administration "on reservations" would, in fact, exclude the Oklahoma tribes and suggested that any proposal for tribal administration of the FSP should consider whether to include designated service areas in Oklahoma.

Second, on the basis of their experience in administering USDA's Food Distribution Program on Indian Reservations, tribal officials in Oklahoma are also concerned that even if they were otherwise authorized to administer the FSP, they would be prohibited from serving their members who reside in urban areas. Both in its nationwide regulations for the food distribution program, which were adopted in 1979 and are applicable to all states, and in its 1984 regulations, which provide for the food distribution program in Oklahoma, FNS prohibits state agencies or tribal organizations from serving "urban places"--towns or cities with populations of 10,000 or more. FNS' stated rationale for this prohibition is that the food distribution program was intended by the Congress to provide food assistance to low-income Native Americans in remote rural areas where the FSP may not be readily accessible. It is assumed that in urban areas, Native Americans have reasonable access to both food stamp certification offices and grocery stores that are authorized to accept food stamps.

In its 1979 regulations, which still govern the food distribution program outside of Oklahoma, FNS permits state agencies or tribal organizations to present justification for waiving the "urban places" limitation. A similar provision was included in FNS' 1984 regulations governing the Oklahoma program, but was made effective only until September 30, 1985, because FNS said it was in the process of reconsidering its policy of urban area exceptions for the entire program. To date, however, FNS has not revised its general policy and only in Oklahoma are tribal organizations precluded from requesting a waiver to serve tribal members living in urban areas.

In discussing this issue with FNS officials, we were told that FNS intends, through the rulemaking process, to restore to tribal organizations administering the food distribution program in Oklahoma the option of applying for a waiver. FNS officials noted

that such waivers have been granted very rarely and are granted only when tribal organizations can clearly and convincingly demonstrate that, despite the urban setting, the FSP is not reasonably accessible. Therefore, they pointed out that restoration of the waiver request authority in Oklahoma should not be expected to result in the program's expansion into towns and cities.

PREVIOUS NAVAJO INQUIRY INTO ADMINISTERING THE FSP

According to internal FNS documents and interviews with state and FNS officials, in 1979 the Navajo Nation requested that it be allowed to administer the FSP as a separate state agency. The Food Stamp Act of 1977 prohibits an Indian tribe from becoming an FSP administrator unless FNS determines that the state agency in which the tribe resides is failing to properly administer the FSP on the reservation. Since this was not the basis for the Navajo request, FNS opted in February 1980 to authorize a 2-year test demonstration project. Under this project, the Navajo Nation⁷ was to administer the FSP, as a county would, under the supervision of the state of Arizona.

For the next 2 years, negotiations took place between the New Mexico, Utah, and Arizona state FSP offices; the three FNS regional offices;⁸ and the Navajo Nation on how to implement the project.

While there were many issues involved, FNS terminated the negotiations on December 10, 1981, primarily because the state of Arizona was unwilling to assume financial liability--liability associated with coupon shortages, thefts and other losses, embezzlement, possible negligence claims, and eventually excessive quality control errors--for the Navajo program. State officials told us they were uncertain of their legal ability to recoup losses from the Navajo Nation in view of the tribe's sovereign immunity. Owing to similar concerns, neither New Mexico nor Utah was willing to assume administrative oversight of the Navajo program. According to state and tribal officials, shortly after FNS terminated negotiations, administrative changes within the Navajo Nation Council focused the tribe's attention on other issues.

⁷The Navajo Nation Reservation primarily spans three states--Arizona, Utah and New Mexico. There is a small contingent of the Navajo Nation in Colorado; however, Colorado did not participate in the negotiations.

⁸These were the Western, Mountain Plains, and Southwest FNS regions.

TRIBES CONTACTED
AND INDIAN POPULATION REPRESENTED

Tribes interviewed	Population represented
Five Sandoval Tribes	
Chochiti Pueblo	936
Jemez Pueblo	2,642
Sandia Pueblo	286
Santa Ana Pueblo	595
Zia Pueblo	721
Muskogee (Creek)	58,516
Sac and Fox	1,586
Chickasaw	13,695
Eight Northern Tribes	
Nambe Pueblo	604
Picuris Pueblo	195
Pojoaque Pueblo	162
San Ildefonso Pueblo	634
San Juan Pueblo	2,132
Santa Clara Pueblo	1,742
Taos Pueblo	1,601
Tesuque Pueblo	389
Apache	6,611 ^a
Acoma Pueblo	5,992
Zuni Pueblo	8,546
Cherokee	95,435
Ponca Creek	2,482
Wichita and Affiliated	839
Kiowa	5,037
Choctaw	33,622

Tribes interviewed	Population represented
Navajo	165,086
Yakama	13,331
Salish and Kootenai	7,667
Rosebud Sioux	12,783
Yavapai Apache	130
Ak-Chin	592
Pima-Maricopa	4,328
Seminole	4,272
Gila River	11,700
Kiabab Paiute	84
Chemehuevi	107
Fort McDowell	765
Colorado River	2,361
Quechan	2,191
Tohono O'odham	17,309
Hopi	9,395
Total	497,101
Total Indian population	1,001,441^b
Percent of BIA Indian population surveyed	49.64%

^aCombined figures for the Jicarilla and Mescalero Apache tribes.

^bIncludes only those Indians in Bureau of Indian Affairs (BIA) service areas, not urban Indians, and not Indians who are not enrolled in a tribe.

Source: Department of the Interior, Bureau of Indian Affairs, "Indian Service Population and Labor Force Estimates," January 1991.

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