

agency is not permitted by law to disburse Federal funds paid to it under the Program; *Provided, however*, That FCSRO shall also administer the Program in all other nonprofit private schools which have been under continuous FCS administration since October 1, 1980, unless the administration of such private schools is assumed by a State agency.

(c) Within the States, responsibility for the administration of the Program in schools as defined in §220.2(u)(3) shall be in the State educational agency, or if the State educational agency cannot administer the Program in such schools, such other agency of the State as has been designated by the Governor or other appropriate executive or legislative authority of the State and approved by the Department to administer the Program in such schools: *Provided, however*, That FCSRO shall administer the Program in such schools if the State agency is not permitted by law to disburse Federal funds paid to it under the Program to such schools; and *Provided, further*, That FCSRO shall also administer the Program in all other such schools which have been under continuous FCS administration since October 1, 1980, unless the administration of such schools is assumed by a State agency.

(d) References in this part to “FCSRO where applicable” are to FCSRO as the agency administering the Program.

(e) Each State agency desiring to take part in any of the programs shall enter into a written agreement with the Department for the administration of the Program in the State in accordance with the provisions of this part. Such agreement shall cover the operation of the Program during the period specified therein and may be extended at the option of the Department.

(Sec. 804, 816 and 817, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785); 44 U.S.C. 3506)

[Amdt. 25, 41 FR 34759, Aug. 17, 1976, as amended at 47 FR 745, Jan. 7, 1982; Amdt. 42, 47 FR 14133, Apr. 2, 1982; Amdt. 56, 54 FR 2990, Jan. 23, 1989]

#### § 220.4 Payment of funds to States and FCSROs.

(a) To the extent funds are available, the Secretary shall make breakfast assistance payments to each State agency for breakfasts served to children under the Program. Subject to §220.13(b)(2), the total of these payments for each State for any fiscal year shall be limited to the total amount of reimbursement payable to eligible schools within the State under this part for the fiscal year.

(b) The Secretary shall prescribe by July 1 of each fiscal year annual adjustments to the nearest one-fourth cent in the national average per breakfast factors for all breakfasts and for free and reduced price breakfasts, that shall reflect changes in the cost of operating a breakfast program.

(c) In addition to the funds made available under paragraph (a) of this section, funds shall be made available to the State agencies, and FCSROs where applicable, in such amounts as are needed to finance reimbursement rates assigned in accordance with the provisions of §220.9(c).

(Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1759(a), 1773, 1758); Pub. L. 97-370, 96 Stat. 1806)

[38 FR 35554, Dec. 28, 1973, as amended at 40 FR 30923, July 24, 1975; 46 FR 51367, Oct. 20, 1981; 48 FR 20896, May 10, 1983; Amdt. 49, 49 FR 18987, May 4, 1984]

#### § 220.5 Method of payment to States.

Funds to be paid to any State for the School Breakfast Program shall be made available by means of Letters of Credit issued by FCS in favor of the State agency. The State agency shall:

(a) Obtain funds needed for reimbursement to School Food Authorities through presentation by designated State officials of a payment Voucher on Letter of Credit in accordance with procedures prescribed by FCS and approved by the U.S. Treasury Department; (b) submit requests for funds only at such times and in such amounts, as will permit prompt payment of claims or authorized advances; and (c) use the funds received from