

year shall be postmarked and/or submitted to FCS within 120 days after the end of the fiscal year. FCS shall not be responsible for reimbursing unpaid program obligations reported later than 120 days after the close of the fiscal year in which they were incurred.

(d) *Compliance.* State agencies, or FCSROs where applicable, shall require School Food Authorities and child-care institutions to comply with applicable provisions of this part.

(e) *Investigations.* Each State Agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program and shall take appropriate action to correct any irregularities. State Agencies shall maintain on file evidence of such investigations and actions. The Office of Investigation of the Department (OI) shall make investigations at the request of the State Agency or if CND or FCSRO determines investigations by OI are appropriate.

(Sec. 11, Pub. L. 95-166, 91 Stat. 1337 (42 U.S.C. 1772, 1753, 1766); 44 U.S.C. 3506; sec. 812, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1759a))

[32 FR 12587, Aug. 31, 1967, as amended by Amdt. 13, 39 FR 28417, Aug. 7, 1974; Amdt. 14, 41 FR 31175, July 27, 1976; 47 FR 745, Jan. 7, 1982; Amdt. 25, 47 FR 18564, Apr. 30, 1982; Amdt. 30, 49 FR 18987, May 4, 1984; 56 FR 32949, July 17, 1991; 57 FR 38586, Aug. 26, 1992]

§215.12 Claims against schools or child-care institutions.

(a) State agencies, or FCSROs where applicable, shall disallow any portion of a claim and recover any payment made to a School Food Authority or child-care institution that was not properly payable under this part. State agencies will use their own procedures to disallow claims and recover overpayments already made.

(b) [Reserved]

(c) The State Agency may refer any matter in connection with this section to FCSRO and CND for determination of the action to be taken.

(d) Each State agency shall maintain all records pertaining to action taken under this section. Such records shall be retained for a period of three years after the date of the submission of the final Financial Status Report, except that, if audit findings have not been re-

solved, the records shall be retained beyond the three-year period as long as required for the resolution of the issues raised by the audit.

(e) If CND does not concur with the State Agency action in paying a claim or a reclaim, or in failing to collect an overpayment FCSRO shall assert a claim against the State Agency for the amount of such claim, reclaim or overpayment. In all such cases, the State Agency shall have full opportunity to submit to CND evidence or information concerning the action taken. If in the determination of CND, the State Agency's action was unwarranted, the State Agency shall promptly pay to FCS the amount of the claim, reclaim, or overpayment.

(f) The amounts recovered by the State Agency from schools and child-care institutions may be utilized, first, to make reimbursement payments for milk served during the fiscal year for which the funds were initially available, and second, to repay any State funds expended in the reimbursement of claims under the program and not otherwise repaid. Any amounts recovered which are not so utilized shall be returned to FCS in accordance with the requirements of §215.5(c).

(g) With respect to schools or child-care institutions in which FCSRO administers the Program, when FCSRO disallows a claim or a portion of a claim, or makes a demand for refund of an alleged overpayment, it shall notify the School Food Authority or child-care institutions of the reasons for such disallowance or demand and the School Food Authority or child-care institutions shall have full opportunity to submit evidence or to file reclaim for any amount disallowed or demanded in the same manner afforded in this section to schools or child-care institutions administered by State Agencies.

(h) The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claims arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the

authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

(47 FR 745, Jan. 7, 1982 (44 U.S.C. 3506; secs. 804, 816 and 817, Pub. L. 97-35; 95 Stat. 521-535 (42 U.S.C. 1753, 1756, 1759, 1771 and 1785))

[32 FR 12587, Aug. 31, 1967, as amended by Amdt. 5, 37 FR 14686, July 22, 1972; Amdt. 13, 39 FR 28418, Aug. 7, 1974; Amdt. 14, 41 FR 31175, July 27, 1976; 47 FR 745, Jan. 7, 1982; Amdt. 24, 47 FR 14133, Apr. 2, 1982]

§ 215.13 Management evaluations and audits.

(a)(1) The State agency shall ensure that all organizations within the State that administer or participate in the Program covered by this part comply with the audit requirements of 7 CFR part 3015. The term “organization”, as used in this section, shall refer to the entity whose financial management system controls the receipt, custody and disbursement of the Federal grant funds made available for the Program. The audits shall ascertain the effectiveness of the financial management systems and internal procedures that have been established by the auditee organization to meet the terms and conditions of its Federal grants. It is not required that the Program covered by this part be included in every audit. Rather, the audits shall be conducted on an organization-wide basis, and shall include an appropriate random sampling of Federal grant programs administered or operated by the auditee organization. The Program covered by this part shall be adequately represented in the universe from which each such sample is selected.

(2) The State agency, or FCSRO where applicable, shall establish procedures to ensure that it obtains the following information pertaining to each School Food Authority or child-care institution organization under its jurisdiction:

(i) The names of the Federal grant programs included in each audit obtained by the School Food Authority or child-care institution pursuant to the requirements of this part, regardless of whether such programs include the Program covered by this part; and
(ii) the nature of any deficiencies intrinsic to the auditee’s grants manage-

ment system as revealed by audit. When system deficiencies, as discussed in the preceding sentence, are reported in audits that did not specifically test the Program covered by this part, the State agency, or FCSRO where applicable, should make, or cause to be made, follow-up audits to determine the impact of such deficiencies upon the Program covered by this part. The State agency, or FCSRO where applicable, shall establish procedures to assure timely and appropriate resolution of audit findings and recommendations, including findings relating to deficiencies such as those cited in paragraph (a)(2)(ii) of this section, which may impact upon the Program covered by this part.

(3) Audits shall be made in accordance with generally accepted auditing standards, including the standards published by the General Accounting Office, Standards for Audit of Governmental Organizations, Programs, Activities and Functions. Audits may be made by any of the following audit groups:

- (i) School Food Authority and State agency staff auditors who are totally independent of the auditee;
- (ii) State Auditors General;
- (iii) State Comptrollers;
- (iv) Other comparable independent State audit groups;
- (v) Certified Public Accountants or
- (vi) State licensed public accountants.

(4) Except as provided for in this section, each organization at the State agency, School Food Authority and child-care institution level shall obtain audits, meeting the conditions discussed in this section, on a continuing basis or at scheduled intervals, usually annually, but not less frequently than once every 2 years. The State agency, or FCSRO where applicable, may elect not to require this audit frequency of School Food Authority organizations to which *both* of the following conditions apply:

(i) The only Federal grant program or programs operated by the School Food Authority organization are the Program covered by this part, the National School Lunch Program, the School Breakfast Program, or any combination of such programs; and