

contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction.

(c) *Procurement procedure.* The State agency may use its own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds adhere to the standards set forth in OMB Circular A-102 and 7 CFR part 3015.

(d) *Property acquired with State administrative expense funds.* State Agencies shall comply with the requirements of OMB Circular A-102 and 7 CFR part 3015, subpart R (46 FR 55654) in their utilization and disposition of property acquired in whole or in part with State Administrative Expense Funds.

(Pub. L. 79-396, 60 Stat. 231 (42 U.S.C. 1751); Pub. L. 89-642, 80 Stat. 885-890 (42 U.S.C. 1773); Pub. L. 91-248, 84 Stat. 207 (42 U.S.C. 1759))

[Amdt. 9, 48 FR 19355, Apr. 29, 1983]

§ 235.10 [Reserved]

§ 235.11 Other provisions.

(a) *State funds.* Expenditures of funds from State sources in any fiscal year for the administration of the National School Lunch Program, School Breakfast Program, Special Milk Program, Child and Adult Care Food Program shall not be less than that expended or obligated in fiscal year 1977. Failure of a State to maintain this level of funding will result in the total withdrawal of SAE funds. State agencies shall follow, as applicable, the provisions of Office of Management and Budget Circular A-102, Attachments F and G and 7 CFR part 3015, subparts G and H in identifying and documenting expenditures of funds from State revenues to meet the State funding requirement of this paragraph.

(b) *Sanctions imposed.* (1) FCS may recover, withhold or cancel payment of up to one hundred (100) percent of the funds payable to a State agency under this part, whenever it is determined by FCS that the State agency has failed to comply with the requirements contained in this part and in parts 210, 215, 220 and 226 of this title and in part 250 of this title as it applies to the operation of the Food Distribution Pro-

gram in schools and child and adult care institutions.

(2) In addition to the general provisions found in paragraph (b)(1) of this section, FCS may, for any fiscal year, recover, withhold or cancel payment of up to thirty-three and one-third (33 $\frac{1}{3}$) percent of the funds payable to, and to be used by, a State agency under § 235.4(a)(1) and § 235.4(b)(3) for administration of school nutrition programs in FCS determines that a State agency is deficient in one or more of the following:

(i) Implementing the requirements in § 210.18 or § 210.18a of this title;

(ii) Conducting the number of reviews required in § 210.18 or § 210.18a of this title within the timeframes specified;

(iii) Covering the areas of review set forth in the § 210.18 or § 210.18a, carrying out corrective action, and assessing and recovering claims as prescribed in § 210.18, § 210.18a, and § 210.19 of this title;

(iv) Conducting reviews with sufficient thoroughness to identify violations of the areas of review identified in § 210.18 or § 210.18a of this title; and

(v) Meeting the reporting deadlines prescribed for the forms (FCS-10 and SF-269) required under § 210.5(d) of this title.

(3) Furthermore, FCS may for any fiscal year, recover, withhold or cancel payment of up to thirty-three and one-third (33 $\frac{1}{3}$) percent of the funds payable to, and to be used by, a State agency under § 235.4(a)(2), § 235.4(b)(1) and § 235.4(b)(4) for administration of the Child and Adult Care Food Program if FCS determines that a State agency is deficient in meeting the reporting deadlines prescribed for the forms (FCS-44 and SF-269) required under § 226.7(d) of this title.

(4) In establishing the amounts of funds to be recovered, withheld or cancelled under paragraph (b)(2) and (b)(3) of this section, FCS shall determine the current or projected rate of funds usage by the State agency for all funds subject to sanction, and after considering the severity and longevity of the cumulative deficiencies, shall apply an appropriate sanction percentage to the amount so determined. During the fiscal year under sanction, a State agency may not use funds not included in the