

## Food and Nutrition Service, USDA

## § 225.11

### § 225.10 Audits and management evaluations.

(a) *Audits.* State agencies shall arrange for audits of their own operations to be conducted in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR part 3015). Unless otherwise exempt, sponsors shall arrange for audits to be conducted in accordance with 7 CFR part 3015. State agencies shall provide OIG with full opportunity to audit the State agency and sponsors. Unless otherwise exempt, audits at the State and sponsor levels shall be conducted in accordance with OMB Circular A-133 and the Department's implementing regulations at 7 CFR part 3052. (To obtain the OMB circular referenced in this paragraph, see 5 CFR 1310.3.) While OIG shall rely to the fullest extent feasible upon State-sponsored audits of sponsors, it shall, when considered necessary, (1) make audits on a State-wide basis, (2) perform on-site test audits, and (3) review audit reports and related working papers of audits performed by or for State agencies.

(b) *Management evaluations.* (1) State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to sponsors) of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds, upon a reasonable request by FNS.

(2) The State agency shall fully respond to any recommendations made by FNSRO pursuant to the management evaluation.

(3) FNSRO may require the State agency to submit on 20 days notice a corrective action plan regarding serious problems observed during any phase of the management evaluation.

(c) *Disregards.* In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed \$100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, when there are unpaid claims for

the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes.

[54 FR 18208, Apr. 27, 1989, as amended at 71 FR 39518, July 13, 2006]

### § 225.11 Corrective action procedures.

(a) *Purpose.* The provisions in this section shall be used by the State agency to improve Program performance.

(b) *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. The State agency shall maintain on file all evidence relating to such investigations and actions. The State agency shall inform the appropriate FNSRO of any suspected fraud or criminal abuse in the Program which would result in a loss or misuse of Federal funds. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(c) *Denial of applications and termination of sponsors.* Except as specified below, the State agency shall not enter into an agreement with any applicant sponsor identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program and was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor which it determines to be seriously deficient. However, the State agency shall afford a sponsor reasonable opportunity to correct problems before terminating the sponsor for being seriously deficient. The State agency may approve the application of a sponsor which has been disapproved or terminated in prior years in accordance with this paragraph if the sponsor demonstrates to the satisfaction of the State agency that the sponsor has taken appropriate corrective actions to prevent recurrence of the deficiencies. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

## § 225.11

(1) Noncompliance with the applicable bid procedures and contract requirements of Federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with this part, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph; and

(4) Program violations at a significant proportion of the sponsor's sites. Such violations include, but are not limited to, the following:

(i) Noncompliance with the meal service time restrictions set forth at § 225.16(c);

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to any child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(d) *Meal service restriction.* With the exception for residential camps set forth at § 225.16(b)(1)(ii), the State agency shall restrict to one meal service per day:

(1) Any food service site which is determined to be in violation of the time restrictions for meal service set forth at § 225.16(c) when corrective action is not taken within a reasonable time as determined by the State agency; and

(2) All sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the time restrictions set forth at § 225.16(c).

## 7 CFR Ch. II (1-1-08 Edition)

If this action results in children not receiving meals under the Program, the State agency shall make reasonable effort to locate another source of meal service for these children.

(e) *Meal disallowances.* (1) If the State agency determines that a sponsor has failed to plan, prepare, or order meals with the objective of providing only one meal per child at each meal service at a site, the State agency shall disallow the number of children's meals prepared or ordered in excess of the number of children served.

(2) If the State agency observes meal service violations during the conduct of a site review, the State agency shall disallow as meals served to children all of the meals observed to be in violation.

(3) The State agency shall also disallow children's meals which are in excess of a site's approved level established under § 225.6(d)(2).

(f) *Corrective action and termination of sites.* (1) Whenever the State agency observes violations during the course of a site review, it shall require the sponsor to take corrective action. If the State agency finds a high level of meal service violations, the State agency shall require a specific immediate corrective action plan to be followed by the sponsor and shall either conduct a follow-up visit or in some other manner verify that the specified corrective action has been taken.

(2) The State agency shall terminate the participation of a sponsor's site if the sponsor fails to take action to correct the Program violations noted in a State agency review report within the timeframes established by the corrective action plan.

(3) The State agency shall immediately terminate the participation of a sponsor's site if during a review it determines that the health or safety of the participating children is imminently threatened.

(4) If the site is vended, the State agency shall within 48 hours notify the food service management company providing meals to the site of the site's termination.

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13469, Apr. 10, 1990]