

Food and Nutrition Service, USDA

§ 248.16

have limited access to locally grown fruits and vegetables.

(i) *Transfer of funds.* A State agency may use not more than 5 percent of the Federal FMNP funds made available for the fiscal year to reimburse expenses incurred by the FMNP during a preceding fiscal year. The State agency shall provide such justification for its request to spend back funds under this paragraph as FNS may require.

(j) *Recovery of unused funds.* State agencies shall return to FNS any unexpended funds made available for a fiscal year by February 1 of the following fiscal year.

(k) *Reallocation of funds.* Any funds recovered under paragraphs (d)(3) and (j) of this section will be reallocated in accordance with the appropriate method determined by FNS.

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49747, Sept. 27, 1995; 60 FR 57148, Nov. 14, 1995; 64 FR 48076, Sept. 2, 1999; 73 FR 65251, Nov. 3, 2008]

§ 248.15 Closeout procedures.

(a) *General.* State agencies shall submit to FNS a final closeout report for the fiscal year on a form prescribed by FNS on a date specified by FNS.

(b) *Grant closeout procedures.* When grants to State agencies are terminated, the following procedures shall be performed in accordance with 7 CFR part 3016.

(1) FNS may disqualify a State agency's participation under the FMNP, in whole or in part, or take such remedies as may be appropriate, whenever FNS determines that the State agency failed to comply with the conditions prescribed in this part, in its Federal-State Agreement, or in FNS guidelines and instructions. FNS will promptly notify the State agency in writing of the disqualification together with the effective date.

(2) FNS may disqualify the State agency or restrict its participation in the FMNP when both parties agree that continuation under the FMNP would not produce beneficial results commensurate with the further expenditure of funds.

(3) Upon termination of a grant, the affected agency shall not incur new obligations after the effective date of the disqualification, and shall cancel as

many outstanding obligations as possible. FNS will allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to disqualification, and the State agency shall do the same for farmers/farmers' markets.

(4) A grant closeout shall not affect the retention period for, or Federal rights of access to, FMNP records as specified in § 248.24(b) and (c). The closeout of a grant does not affect the responsibilities of the State agency regarding property or with respect to any FMNP income for which the State agency is still accountable.

(5) A final audit is not a required part of the grant closeout and should not be needed unless there are problems with the grant that require attention. If FNS considers a final audit to be necessary, it shall so inform OIG. OIG will be responsible for ensuring that necessary final audits are performed and for any necessary coordination with other Federal cognizant audit agencies or State or local auditors. Audits performed in accordance with § 248.18 may serve as final audits providing such audits meet the needs of requesting agencies. If the grant is closed out without an audit, FNS reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

§ 248.16 Administrative appeal of State agency decisions.

(a) *Requirements.* The State agency shall provide a hearing procedure whereby recipients, local agencies and farmers/farmers' markets adversely affected by certain actions of the State agency may appeal those actions. A recipient may appeal disqualification/suspension of FMNP benefits. A local agency may appeal an action of the State agency disqualifying it from participating in the FMNP. A farmer/farmers' market may appeal an action of the State agency denying its application to participate, imposing a sanction, or disqualifying it from participating in the FMNP. Expiration of a contract or agreement shall not be subject to appeal.