

Food and Nutrition Service, USDA

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type, as adjusted in accordance with paragraph (d)(9) of this section.

(8) Payments to a sponsor for administrative costs must equal the lowest of the following totals:

(i) The amount estimated in the sponsor's approved administrative budget (taking into account any amendments);

(ii) The actual administrative costs incurred by the sponsor; or

(iii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by the current administrative rates for each meal type, as adjusted in accordance with paragraph (d)(9) of this section. Sponsors must be eligible to receive additional administrative reimbursement for each meal served to participating children at rural or self-preparation sites, and the rates for such additional administrative reimbursement must be adjusted in accordance with paragraph (d)(9) of this section.

(9) On each January 1, or as soon thereafter or as practicable, FNS will publish a notice in the FEDERAL REGISTER announcing any adjustment to the reimbursement rates described in paragraphs (d)(7)(ii) and (d)(8)(iii) of this section. Adjustments will be based upon changes in the series for food away from home of the Consumer Price Index(CPI) for all urban consumers since the establishment of the rates. Higher rates will be established for Alaska and Hawaii, based on the CPI for those States.

(10) Sponsors of camps shall be reimbursed only for meals served to children in camps whose eligibility for Program meals is documented. Sponsors of NYSP sites shall only claim reimbursement for meals served to children enrolled in the NYSP.

(11) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations shall be a basis for nonpayment of the applicable sponsor's claims for reimbursement.

(e) The sponsor may claim reimbursement for any meals which are ex-

amined for meal quality by the State agency, auditors, or local health authorities and found to meet the meal pattern requirements.

(f) The sponsor shall not claim reimbursement for meals served to children at any site in excess of the site's approved level of meal service, if one has been established under § 225.6(d)(2). However, the total number of meals for which operating costs are claimed may exceed the approved level of meal service if the meals exceeding this level were served to adults performing necessary food service labor in accordance with paragraph (d)(5) of this section. In reviewing a sponsor's claim, the State agency shall ensure that reimbursements for second meals are limited to the percentage tolerance established in § 225.15(b)(4).

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13469, Apr. 10, 1990; 64 FR 72485, Dec. 28, 1999]

§ 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

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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 cor-

porate 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:

(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;