

§ 247.31

based on a cost-benefit review, for determining when the pursuit of a claim is cost-effective, and must ensure that local agencies use these standards in determining if a claim is to be pursued. In pursuing a claim against a participant, the local agency must:

(1) Issue a letter demanding repayment for the value of the commodities improperly received or used;

(2) If repayment is not made in a timely manner, take additional collection actions that are cost-effective, in accordance with the standards established by the State agency; and

(3) Maintain all records regarding claims actions taken against participants, in accordance with § 247.29.

(Approved by the Office of Management and Budget under control number 0584-0293)

[70 FR 47063, Aug. 11, 2005, as amended at 79 FR 38751, July 9, 2014]

§ 247.31 Audits and investigations.

(a) *What is the purpose of an audit?* The purpose of an audit is to ensure that:

(1) Financial operations are properly conducted;

(2) Financial reports are fairly presented;

(3) Proper inventory controls are maintained; and

(4) Applicable laws, regulations, and administrative requirements are followed.

(b) *When may the Department conduct an audit or investigation of the program?* The Department may conduct an audit of the program at the State or local agency level at its discretion, or may investigate an allegation that the State or local agency has not complied with Federal requirements. An investigation may include a review of any State or local agency policies or practices related to the specific area of concern.

(c) *What are the responsibilities of the State agency in responding to an audit by the Department?* In responding to an audit by the Department, the State agency must:

(1) Provide access to any records or documents compiled by the State or local agencies, or contractors; and

(2) Submit a response or statement to FNS describing the actions planned or taken in response to audit findings or

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recommendations. The corrective action plan must include time frames for implementation and completion of actions. FNS will determine if actions or planned actions adequately respond to the program deficiencies identified in the audit. If additional actions are needed, FNS will schedule a follow-up review and allow sufficient time for further corrective actions. The State agency may also take exception to particular audit findings or recommendations.

(d) *When is a State or local agency audit required?* State and local agency audits must be conducted in accordance with part 3052 of this title, which contains the Department's regulations pertaining to audits of States, local governments, and nonprofit organizations. The value of CSFP commodities distributed by the agency or organization must be considered part of the Federal award.

(e) *What are the requirements for State or local agency audits?* State and local agency audits must be conducted in accordance with the requirements of part 3052 of this title, which contains the Department's regulations pertaining to audits of States, local governments, and nonprofit organizations. The State agency must ensure that local agencies meet the audit requirements. The State agency must ensure that all State or local agency audit reports are available for FNS review.

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§ 247.32 Termination of agency participation.

(a) *When may a State agency's participation in CSFP be terminated?* While paragraphs (a)(1), (a)(2), and (a)(3) of this section, as applicable, describe the circumstances and basic procedures for terminating State agency programs, specific actions and procedures relating to program termination are more fully described in part 3016 of this title.

(1) *Termination by FNS.* FNS may terminate a State agency's participation in CSFP, in whole or in part, if the State agency does not comply with the requirements of this part. FNS must provide written notification to the State agency of termination, including

the reasons for the action, and the effective date.

(2) *Termination by State agency.* The State agency may terminate the program, in whole or in part, upon written notification to FNS, stating the reasons and effective date of the action. In accordance with §247.4(b)(6), which relates to the termination of agreements, either party must provide, at minimum, 30 days' written notice.

(3) *Termination by mutual agreement.* The State agency's program may also be terminated, in whole or in part, if both parties agree the action would be in the best interest of the program. The two parties must agree upon the conditions of the termination, including the effective date.

(b) *When may a local agency's participation in CSFP be terminated?* While paragraphs (b)(1), (b)(2), and (b)(3) of this section, as applicable, describe the circumstances and basic procedures in termination of local agency programs, specific actions and procedures relating to program termination are more fully described in part 3016 of this title.

(1) *Termination by State agency.* The State agency may terminate a local agency's participation in CSFP, or may be required to terminate a local agency's participation, in whole or in part, if the local agency does not comply with the requirements of this part. The State agency must notify the local agency in writing of the termination, the reasons for the action, and the effective date, and must provide the local agency with an opportunity to appeal, in accordance with §247.35. (The local agency may appeal the termination in accordance with §247.35.)

(2) *Termination by local agency.* The local agency may terminate the program, in whole or in part, upon written notification to the State agency, stating the reasons and effective date of the action. In accordance with §247.4(b)(6), which relates to the termination of agreements, either party must provide, at minimum, 30 days' written notice.

(3) *Termination by mutual agreement.* The local agency's program may also be terminated, in whole or in part, if both the State and local agency agree that the action would be in the best interest of the program. The two parties

must agree upon the conditions of the termination, including the effective date.

§ 247.33 Fair hearings.

(a) *What is a fair hearing?* A fair hearing is a process that allows a CSFP applicant or participant to appeal an adverse action, which may include the denial or discontinuance of program benefits, disqualification from the program, or a claim to repay the value of commodities received as a result of fraud. State and local agencies must ensure that CSFP applicants and participants understand their right to appeal an adverse action through the fair hearing process, which includes providing written notification of the individual's right to a fair hearing along with notification of the adverse action. Such notification is not required at the expiration of a certification period.

(b) *What are the basic requirements the State agency must follow in establishing procedures to be used in fair hearings?* The State agency must establish simple, clear, uniform rules of procedure to be used in fair hearings, including, at a minimum, the procedures outlined in this section. The State agency may use alternate procedures if approved by FNS. The rules of procedure must be available for public inspection and copying.

(c) *How may an individual request a fair hearing?* An individual or an individual's caretaker may request a fair hearing by making a clear expression, verbal or written, to a State or local agency official that an appeal of the adverse action is desired.

(d) *How much time does an individual have to request a fair hearing?* The State or local agency must allow an individual at least 60 days from the date the agency mails or gives the individual the notification of adverse action to request a fair hearing.

(e) *When may a State or local agency deny a request for a fair hearing?* The State or local agency may deny a request for a fair hearing when:

(1) The request is not received within the time limit established in paragraph (d) of this section;

(2) The request is withdrawn in writing by the individual requesting the