

§ 226.5

7 CFR Ch. II (1–1–16 Edition)

published by the Department of Labor. Such adjustments shall be made to the nearest dollar based on changes measured over the most recent twelve-month period for which data are available.

(j) *Audit funds.* For the expense of conducting audits and reviews under § 226.8, funds shall be made available to each State agency in an amount equal to one and one-half percent of the Program reimbursement provided to institutions within the State during the second fiscal year preceding the fiscal year for which these funds are to be made available. The amount of assistance provided to a State under this paragraph in any fiscal year may not exceed the State's expenditures under § 226.8 during such fiscal year.

(k) *Method of funding.* FNS shall authorize funds for State agencies in accordance with 7 CFR part 3016.

(l) *Special developmental projects.* The State agency may use in carrying out special developmental projects an amount not to exceed one percent of Program funds used in the second prior fiscal year. Special developmental projects shall conform to FNS guidance and be approved in writing by FNS.

[47 FR 36527, Aug. 20, 1982, as amended at 52 FR 36906, Oct. 2, 1987; 53 FR 52588, Dec. 28, 1988; 62 FR 902, Jan. 7, 1997; 63 FR 9728, Feb. 26, 1998; 69 FR 53536, Sept. 1, 2004; 71 FR 4, Jan. 3, 2006; 71 FR 39518, July 13, 2006; 72 FR 41603, 41604, July 31, 2007; 75 FR 16327, Apr. 1, 2010; 76 FR 34569, June 13, 2011; 78 FR 13451, Feb. 28, 2013]

EDITORIAL NOTE: At 75 FR 16327, Apr. 1, 2010, § 226.4 was amended in paragraph (d) by inserting "Richard B. Russell" before "National School Lunch Program" in the first sentence;; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

§ 226.5 Donation of commodities.

(a) USDA foods available under section 6 of this Act, section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 1431), section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1), or other authority, and donated by the Department shall be made available to each State.

(b) The value of such commodities donated to each State for each school

year shall be, at a minimum, the amount obtained by multiplying the number of reimbursable lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities established under section 6(e) of the Act for the current school year. Adjustments shall be made at the end of each school year to reflect the difference between the number of reimbursable lunches and suppers served during the preceding year and the number served during the current year, and subsequent commodity entitlement shall be based on the adjusted meal counts. At the discretion of FNS, current-year adjustments may be made for significant variations in the number of reimbursable meals served. Such current-year adjustments will not be routine and will only be made for unusual problems encountered in a State, such as a disaster that necessitates institutional closures for a prolonged period of time. CACFP State agencies electing to receive cash-in-lieu of commodities will receive payments based on the number of reimbursable meals actually served during the current school year.

[47 FR 36527, Aug. 20, 1982, as amended at 62 FR 23618, May 1, 1997]

Subpart C—State Agency Provisions

§ 226.6 State agency administrative responsibilities.

(a) *State agency personnel.* Each State agency must provide sufficient consultative, technical, and managerial personnel to:

- (1) Administer the Program;
- (2) Provide sufficient training and technical assistance to institutions;
- (3) Monitor Program performance;
- (4) Facilitate expansion of the Program in low-income and rural areas; and
- (5) Ensure effective operation of the Program by participating institutions.

(b) *Program applications and agreements.* Each State agency must establish application review procedures, in accordance with paragraphs (b)(1)