

by filing a complaint against the United States within 30 days after the date of delivery of the final determination, requesting the court to set aside the final determination. The final determination shall remain in effect during the period the judicial review or any appeal therefrom is pending unless the court temporarily stays such administrative action after a showing that irreparable injury will occur absent a stay and that the State agency is likely to prevail on the merits of the case.

(k) *Extension of time.* (1) No extension of time shall be permitted a State agency in which to file an initial request for an administrative review. All other requests from the State agency or from FNS for the extension of any deadline contained in §276.7 of these regulations or imposed by the Appeals Board or hearing official shall be granted only for good cause shown and only when received by the Executive Secretary before the expiration of the particular deadline involved. All requests for an extension shall be in writing. Filing a request for an extension stops the running of the prescribed period of time. When a request for an extension is granted, the requester shall be notified in writing of the amount of additional time granted. When a request is denied for being untimely or for cause, the requester shall be notified and the prescribed period of time shall resume from the date of denial.

(2) The Appeals Board or hearing official may grant itself such additional time as it may reasonably require to complete any of its assigned responsibilities. If the Appeals Board or hearing official does find it necessary to grant itself an extension of time, the Executive Secretary shall notify all parties in writing.

[Amdt. 168, 45 FR 77263, Nov. 21, 1980, as amended by Amdt. 274, 51 FR 18752, May 21, 1986; Amdt. 356, 59 FR 29714, June 9, 1994; Amdt. 397, 70 FR 72354, Dec. 5, 2005]

PART 277—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES

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APPENDIX A TO PART 277—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO ADMINISTRATION OF THE FOOD STAMP PROGRAM BY STATE AGENCIES

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EDITORIAL NOTE: OMB control numbers relating to this part 277 are contained in §271.8.

§277.1 General purpose and scope.

(a) *Purpose.* This part establishes uniform requirements for the management of administrative funds provided to State agencies and sets forth principles for claiming costs of activities paid with administrative funds under the Food Stamp Program, and the Food Distribution Program and Food Stamp Program on Indian Reservations.

(b) *Scope and applicability.* Upon compliance with the provisions of this part, payments to State agencies will be made for cost(s) incurred for administration of the Food Stamp Program and for administration of the Food Distribution Program on Indian Reservations. To ensure maximum practical uniformity, deviation(s) by a State agency from this part may be authorized only when necessary to meet program objectives, to conserve program funds, or when essential to the public interest. However, any deviations from this part must be authorized by the Administrator of FNS.

§277.2 Definitions.

For the purpose of this part the term: *Accrued expenditures* means the charges incurred by the State agency

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during a given period for liabilities incurred, benefits received or for goods and services used during this period.

Accrued income means the net value of earnings during a given period resulting from services and goods provided whether or not payment has been realized.

Acquisition cost refers to nonexpendable personal property acquired by purchase and means the net invoice price of the property including any attachments, accessories or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protection in-transit insurance, freight or installation shall be included in or excluded from acquisition cost in accordance with the State agency's regular accounting practices.

Approval or authorization by FNS means documentation evidencing consent prior to incurring specific costs.

Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to programs as direct or indirect costs. Examples of such transactions are: Purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

Disbursements refers to the transfer of funds by the state agency to pay for Program costs resulting from purchased or expired goods and services.

Expendable personal property means all tangible personal property other than nonexpendable property.

Program funds means money, or property provided in lieu of money, paid for or furnished by FNS to a State agency.

Funds available to the State agency may include contributions from third parties including other Federal agencies.

In-kind contributions refers to the value of noncash contributions. Only when authorized by Federal legislation may property purchased with Federal funds be considered as a State agency's in-kind contribution. In-kind contributions may be for the value of real and/or nonexpendable personal property or the value of goods and services pro-

vided specifically to the project or program.

Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of more than \$300 per unit. A State agency may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined herein.

Obligations are the amounts of orders placed, contracts awarded, services received, and similar transactions during a given period which require payment.

Offset means a method to recover funds due FNS through use of the Letter of Credit system. Recovery is accomplished by accounting adjustments to increase Federal funds on hand or disbursed.

OMB means the Office of Management and Budget.

Personal property means property of any kind except real property. It may be tangible (having physical existence) or intangible (having no physical existence) such as patents, inventions and copyrights.

Program means both the Food Stamp Program and the Food Distribution Program on Indian Reservations.

Program closeout means the process by which FNS determines that all applicable administrative and financial processes have been completed by the State agency and FNS terminates the program in the affected project area or areas.

Project costs are allowable costs as set forth in this part.

Real property means land, land improvements, structure and appurtenances thereto, excluding movable machinery and equipment.

State agency means the organization as defined in 7 CFR 271.1.

State agency costs means the State agency outlays from its funds available for program administration. Unless authorized by Federal legislation, costs charged to other Federal grants or to other Federal contracts may not be considered as State agency costs reimbursable under this authority.

Subagency means the organization or person to which a State agency makes any payment for acquisition of goods,

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materials or services for use in administering the program and which is accountable to the State agency for the use of funds provided.

Terms and conditions means legal requirements imposed by the Federal Government under statute, regulations, contracts, agreements or otherwise.

Unliquidated obligation represents the amount of obligations not yet paid.

Unobligated balance means the portion of the Federal funds authorized less all allowable costs and unpaid obligations of the State agency.

§277.3 Budgets and budget revision procedures.

The preparation, content, submittal, and revision requirements for the State Food Stamp Program Budget shall be as specified in §272.2. The application for funds and budget requirements for the Food Distribution Program on Indian Reservations shall be as specified in §283.9. State agencies must submit a budget to FNS as part of the State Plan each fiscal year. Upon approval of the budget by FNS, administrative funds will be provided.

§277.4 Funding.

(a) *General.* This section sets allowable cost standards for activities of State agencies in administering the Food Stamp Program and Food Distribution Program on Indian Reservations.

(b) *Federal reimbursement rate.* The base percentage for Federal payment shall be 50 percent of State agencies' allowable Food Stamp Program administrative costs. This rate includes reimbursement for food stamp informational activities but not for recruitment activities. Recruitment activities are those activities designed to persuade an individual who has made an informed choice not to apply for food stamps to change his or her decision and apply.

(1) Funding of demonstration projects approved by FNS will be at a rate agreed to by FNS in accordance with the requirements outlined in part 282.

(2) The reimbursement of administrative costs to State agencies administering the program on Indian reserva-

tions shall be in accordance with the requirements of parts 281 and 283.

(3) the federally funded share of administrative costs, as identified in paragraph (b) of this section may be decreased based upon its payment error rate as described in §275.23. The rates of Federal funding for the activities identified in paragraphs (b)(1) and (b)(2) of this section shall not be reduced based upon the agency's payment error rate.

(4) Employment and training program grants, as outlined in §273.7(d) shall be 100 percent federally-funded.

(c) *Matching costs.* State agency costs for Federal matching funds may consist of:

(1) Charges reported on a cash or accrual basis by the State agency as project costs.

(2) Project costs financed with cash contributed or donated to the State agency by other non-Federal public agencies and institutions.

(3) Project costs represented by services and real or personal property donated by other non-Federal public agencies and institutions.

(d) All cash or in-kind contributions except as provided in paragraph (e) of this section shall be allowable as part of the State agency's share of program costs when such contributions:

(1) Are verifiable;

(2) Are not contributed for another federally-assisted program, unless authorized by Federal legislation;

(3) Are necessary and reasonable for accomplishment of project objectives;

(4) Are charges that would be allowable under this part;

(5) Are not paid by the Federal Government under another assistance agreement unless authorized under the other agreement and its subject laws and regulations; and

(6) Are in the approved budget.

(e) The value of services rendered by volunteers or the value of goods contributed by third parties, exclusive of the State and Federal agencies, are unallowable for reimbursement purposes under the Food Stamp Program. The value of services rendered by volunteers shall be allowable only to meet any matching administrative costs requirements for the Food Distribution Program on Indian Reservations.