

Food and Nutrition Service, USDA

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and Drug Administration's Standard of Identity for yogurt, lowfat yogurt, and nonfat yogurt, (21 CFR 131.200), (21 CFR 131.203), (21 CFR 131.206), respectively.

7 CFR part 3015 means the Uniform Federal Assistance Regulations published by the Department to implement certain policies applicable to all Department programs. The applicable provisions deal with competition for discretionary grants and cooperative agreements, costs requiring prior approval, acknowledgement of Department support in publications and audiovisuals produced under Department programs, intergovernmental review of Department programs under Executive Order 12372, and certain miscellaneous Department requirements.

7 CFR part 3016 means the Department's Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. 7 CFR part 3016 covers requirements for awards and subawards to State and local governmental organizations under Department programs.

7 CFR part 3019 means the Department's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. 7 CFR part 3019 covers requirements for awards and subawards to nongovernmental, nonprofit organizations under Department programs.

7 CFR part 3052 means the Department's regulations implementing OMB Circular A-133. (To obtain the OMB circular referenced in this definition, see 5 CFR 1310.3.)

[54 FR 18208, Apr. 27, 1989, as amended at 54 FR 27153, June 28, 1989; 55 FR 13466, Apr. 10, 1990; 61 FR 25553, May 22, 1996; 64 FR 72483, Dec. 28, 1999; 64 FR 72895, Dec. 29, 1999; 66 FR 2202, Jan. 11, 2001; 71 FR 39518, July 13, 2006; 72 FR 10895, Mar. 12, 2007]

§ 225.3 Administration.

(a) *Responsibility within the Department.* FNS shall act on behalf of the Department in the administration of the Program.

(b) *State administered programs.* Within the State, responsibility for the administration of the Program shall be in the State agency. Each State agency must notify the Department by November 1 of the fiscal year regarding its in-

attention to administer the Program. Each State agency desiring to take part in the Program shall enter into a written agreement with FNS for the administration of the Program in accordance with the provisions of this part. The agreement shall cover the operation of the Program during the period specified therein and may be extended by written consent of both parties. The agreement shall contain an assurance that the State agency will comply with the Department's non-discrimination regulations (7 CFR part 15) issued under title VI of the Civil Rights Act of 1964, and any Instructions issued by FNS pursuant to those regulations, title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973. However, if a State educational agency is not permitted by law to disburse funds to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as the disbursements to public schools within the State by the State educational agency.

(c) *Regional office administered programs.* The Secretary shall not administer the Program in the States, except that if a FNSRO has continuously administered the Program in any State since October 1, 1980, FNS shall continue to administer the Program in that State. In States in which FNSRO administers the Program, it shall have all of the responsibilities of a State agency and shall earn State administrative and Program funds as set forth in this part. A State in which FNS administers the Program may, upon request to FNS, assume administration of the Program.

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13466, Apr. 10, 1990; 64 FR 72483, Dec. 28, 1999]

Subpart B—State Agency Provisions

§ 225.4 Program management and administration plan.

(a) Not later than February 15 of each year, each State agency shall submit to FNSRO a Program management

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and administration plan for that fiscal year.

(b) Each plan shall be acted on or approved by March 15 or, if it is submitted late, within 30 calendar days of receipt of the plan. If the plan initially submitted is not approved, the State agency and FNS shall work together to ensure that changes to the plan, in the form of amendments, are submitted so that the plan can be approved within 60 calendar days following the initial submission of the plan. Upon approval of the plan, the State agency shall be notified of the level of State administrative funding which it is assured of receiving under § 225.5(a)(3).

(c) Approval of the Plan by FNS shall be a prerequisite to the withdrawal of Program funds by the State from the Letter of Credit and to the donation by the Department of any commodities for use in the State's Program.

(d) The Plan must include, at a minimum, the following information:

(1) The State's administrative budget for the fiscal year, and the State's plan to comply with any standards prescribed by the Secretary for the use of these funds;

(2) The State's plan for use of Program funds and funds from within the State to the maximum extent practicable to reach needy children;

(3) The State's plans for providing technical assistance and training to eligible sponsors;

(4) The State's plans for monitoring and inspecting sponsors, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(5) The State's plan for timely and effective action against Program violators;

(6) The State's plan for ensuring the fiscal integrity of sponsors not subject to auditing requirements prescribed by the Secretary;

(7) The State's plan for ensuring compliance with the food service management company procurement monitoring requirements set forth at § 225.6(h); and

(8) An estimate of the State's need, if any, for monies available to pay for the

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cost of conducting health inspections and meal quality tests.

[54 FR 18208, Apr. 27, 1989, as amended at 55 FR 13466, Apr. 10, 1990; 64 FR 72483, Dec. 28, 1999]

§ 225.5 Payments to State agencies and use of Program funds.

(a) *State administrative funds*—(1) *Administrative funding formula.* For each fiscal year, FNS shall pay to each State agency for administrative expenses incurred in the Program an amount equal to

(i) 20 percent of the first \$50,000 in Program funds properly payable to the State in the preceding fiscal year;

(ii) 10 percent of the next \$100,000 in Program funds properly payable to the State in the preceding fiscal year;

(iii) 5 percent of the next \$250,000 in Program funds properly payable to the State in the preceding fiscal year; and

(iv) 2½ percent of any remaining Program funds properly payable to the State in the preceding fiscal year.

Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS. If a State agency fails to submit timely and accurate reports under § 225.8(c) of this part, State administrative funds payable under this paragraph shall be subject to sanction. For such failure, FNS may recover, withhold, or cancel payment of up to one hundred percent of the funds payable to the State agency under this paragraph during the fiscal year.

(2) *Use of State administrative funds.* State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative expenses as are set forth in their approved Program management and administration plan.