§ 220.15 Management evaluations and audits.

(a) Unless otherwise exempt, audits at the State and institution levels shall be conducted in accordance with Office of Management and Budget Circular A-133 and the Department’s implementing regulations at 7 CFR part 3052. For availability of the OMB Circular mentioned in this paragraph, please refer to 5 CFR 1310.3.

(b) Each State agency shall provide FNS with full opportunity to conduct management evaluations (including visits to schools) of all operations of the State agency under the programs covered by this part and shall provide OIG with full opportunity to conduct audits (including visits to schools) of all operations of the State agency under such programs. Each State agency shall make available its records, including records of the receipt and expenditure of funds under such programs, upon a reasonable request by FNS or OIG. OIG shall also have the right to make audits of the records and operations of any school.

(c) In conducting management evaluations, reviews, or audits in a fiscal year, the State agency, FNS, or OIG may disregard an overpayment if the overpayment does not exceed $600. A State agency may establish, through State law, regulation or procedure, an alternate disregard threshold that does not exceed $600. This disregard may be made once per each management evaluation, review, or audit per Program within a fiscal year. However, no overpayment is to be disregarded where
there is substantial evidence of violations of criminal law or civil fraud statutes.


§ 220.16 Procurement standards.

(a) General. State agencies and school food authorities shall comply with the requirements of this part and parts 3015, 3016 and 3019 of this title, as applicable, which implement the applicable Office of Management and Budget Circulars, concerning the procurement of all goods and services with nonprofit school food service account funds.

(b) Contractual responsibilities. The standards contained in 7 CFR part 3016 or 7 CFR part 3019, as applicable, do not relieve the State agency or School Food Authority of any contractual responsibilities under its contract. The State agency or School Food Authority is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes but is not limited to: source evaluation, protests, disputes, claims, or other matters of a contractual nature. Matters concerning violation of law are to be referred to the local, State or Federal authority that has proper jurisdiction.

(c) Procedures. The State agency may elect to follow either the State laws, policies and procedures as authorized by §§3016.36(a) and 3016.37(a) of this title, or the procurement standards for other governmental grantees and all governmental subgrantees in accordance with §3016.36(b) through (i) of this title. Regardless of the option selected, States must ensure that all contracts include any clauses required by Federal statutes and executive orders and that the requirements of §3016.60(b) and (c) of this title are followed. The school food authority may use its own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in this part and §§3016.36(b) through 3016.60 and §§3019.40 through 3019.48 of this title, as applicable, and the applicable Office of Management and Budget Circulars. School food authority procedures must include a written code of standards of conduct meeting the minimum standards of §3016.36(b)(3) or §3019.42 of this title, as applicable.

(1) Pre-issuance review requirement. The State agency may impose a pre-issuance review requirement on a school food authority’s proposed procurement. The school food authority must make available, upon request of the State agency, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts and contract terms. School food authorities shall comply with State agency requests for changes to procurement procedures and solicitation and contract documents to ensure that, to the State agency’s satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of this part.

(2) Prototype solicitation documents and contracts. The school food authority must obtain the State agency’s prior written approval for any change made to prototype solicitation or contract documents before issuing the revised solicitation documents or execution of the revised contract.

(3) Prohibited expenditures. No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of this part.

(d) Buy American—(1) Definition of domestic commodity or product. In this paragraph (d), the term “domestic commodity or product” means—

(i) An agricultural commodity that is produced in the United States; and

(ii) A food product that is processed in the United States substantially