

Food and Nutrition Service, USDA

§ 210.15

(i) School food authorities shall report prices charged for paid lunches to the State agency; and

(ii) State agencies shall report these prices to FNS.

(f) *Revenue from nonprogram foods.* Beginning July 1, 2011, school food authorities shall ensure that the revenue generated from the sale of nonprogram foods complies with the requirements in this paragraph.

(1) *Definition of nonprogram foods.* For the purposes of this paragraph, nonprogram foods are those foods and beverages:

(i) Sold in a participating school other than reimbursable meals and meal supplements; and

(ii) Purchased using funds from the nonprofit school food service account.

(2) *Revenue from nonprogram foods.* The proportion of total revenue from the sale of nonprogram foods to total revenue of the school food service account shall be equal to or greater than:

(i) The proportion of total food costs associated with obtaining nonprogram foods to

(ii) The total costs associated with obtaining program and nonprogram foods from the account.

(3) All revenue from the sale of nonprogram foods shall accrue to the nonprofit school food service account of a participating school food authority.

(g) *Indirect costs.* School food authorities must follow fair and consistent methodologies to identify and allocate allowable indirect costs to the nonprofit school food service account, in accordance with 2 CFR part 200 as implemented by 2 CFR part 400.

[53 FR 29147, Aug. 2, 1988, as amended at 60 FR 31215, June 13, 1995; 76 FR 35316, June 17, 2011; 81 FR 50185, July 29, 2016]

§ 210.15 Reporting and recordkeeping.

(a) *Reporting summary.* Participating school food authorities are required to submit forms and reports to the State agency or the distributing agency, as appropriate, to demonstrate compliance with Program requirements. These reports include, but are not limited to:

(1) A Claim for Reimbursement and, for the month of October and as otherwise specified by the State agency, sup-

porting data as specified in accordance with § 210.8 of this part;

(2) An application and agreement for Program operations between the school food authority and the State agency, and a Free and Reduced Price Policy Statement as required under § 210.9;

(3) A written response to reviews pertaining to corrective action taken for Program deficiencies;

(4) A commodity school's preference whether to receive part of its donated food allocation in cash for processing and handling of donated foods as required under § 210.19(b);

(5) A written response to audit findings pertaining to the school food authority's operation as required under § 210.22;

(6) Information on civil rights complaints, if any, and their resolution as required under § 210.23;

(7) The number of food safety inspections obtained per school year by each school under its jurisdiction;

(8) The prices of paid lunches charged by the school food authority; and

(9) For any local educational agency required to conduct a second review of free and reduced price applications as required under § 245.11 of this chapter, the number of free and reduced price applications subject to a second review, the number and percentage of reviewed applications for which the eligibility determination was changed, and a summary of the types of changes made.

(b) *Recordkeeping summary.* In order to participate in the Program, a school food authority or a school, as applicable, must maintain records to demonstrate compliance with Program requirements. These records include but are not limited to:

(1) Documentation of participation data by school in support of the Claim for Reimbursement and data used in the claims review process, as required under § 210.8(a), (b), and (c) of this part;

(2) Production and menu records as required under § 210.10 and documentation to support performance-based cash assistance, as required under § 210.7(d)(2).

(3) Participation records to demonstrate positive action toward providing one lunch per child per day as required under § 210.10(a)(2), whichever is applicable;

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(4) Currently approved and denied certification documentation for free and reduced price lunches and a description of the verification activities, including verified applications, and any accompanying source documentation in accordance with 7 CFR 245.6a of this Title; and

(5) Records from the food safety program for a period of six months following a month's temperature records to demonstrate compliance with §210.13(c), and records from the most recent food safety inspection to demonstrate compliance with §210.13(b);

(6) Records to document compliance with the requirements in §210.14(e);

(7) Records to document compliance with the requirements in §210.14(f); and

(8) Records for a three year period to demonstrate the school food authority's compliance with the professional standards for school nutrition program directors, managers and personnel established in §210.30.

(9) Records to document compliance with the local school wellness policy requirements as set forth in §210.30(f).

[53 FR 29147, Aug. 2, 1988, as amended at 54 FR 12582, Mar. 28, 1989; 56 FR 32941, July 17, 1991; 60 FR 31215, June 13, 1995; 65 FR 26912, 26922, May 9, 2000; 70 FR 34630, June 15, 2005; 74 FR 66216, Dec. 15, 2009; 76 FR 35317, June 17, 2011; 77 FR 25035, Apr. 27, 2012; 79 FR 7053, Feb. 6, 2014; 80 FR 11092, Mar. 2, 2015; 81 FR 50169, July 29, 2016; 81 FR 50185, July 29, 2016]

§210.16 Food service management companies.

(a) *General.* Any school food authority (including a State agency acting in the capacity of a school food authority) may contract with a food service management company to manage its food service operation in one or more of its schools. However, no school or school food authority may contract with a food service management company to operate an a la carte food service unless the company agrees to offer free, reduced price and paid reimbursable lunches to all eligible children. Any school food authority that employs a food service management company in the operation of its nonprofit school food service shall:

(1) Adhere to the procurement standards specified in §210.21 when contracting with the food service management company;

(2) Ensure that the food service operation is in conformance with the school food authority's agreement under the Program;

(3) Monitor the food service operation through periodic on-site visits;

(4) Retain control of the quality, extent, and general nature of its food service, and the prices to be charged the children for meals;

(5) Retain signature authority on the State agency-school food authority agreement, free and reduced price policy statement and claims;

(6) Ensure that all federally donated foods received by the school food authority and made available to the food service management company accrue only to the benefit of the school food authority's nonprofit school food service and are fully utilized therein;

(7) Maintain applicable health certification and assure that all State and local regulations are being met by a food service management company preparing or serving meals at a school food authority facility;

(8) Establish an advisory board composed of parents, teachers, and students to assist in menu planning;

(9) Obtain written approval of invitations for bids and requests for proposals before their issuance when required by the State agency. The school food authority must incorporate all State agency required changes to its solicitation documents before issuing those documents; and

(10) Ensure that the State agency has reviewed and approved the contract terms and that the school food authority has incorporated all State agency required changes into the contract or amendment before any contract or amendment to an existing food service management company contract is executed. Any changes made by the school food authority or a food service management company to a State agency pre-approved prototype contract or State agency approved contract term must be approved in writing by the State agency before the contract is executed. When requested, the school food authority must submit all procurement documents, including responses submitted by potential contractors, to the State agency, by the