

## §215.6

procedures prescribed by FNS and approved by the U.S. Treasury Department;

(2) Submit requests for funds only at such times and in such amounts as will permit prompt payment of claims;

(3) Use the funds received from such requests without delay for the purpose for which drawn. Notwithstanding the foregoing provisions, if funds are made available by Congress for the operation of the Program under a continuing resolution, Letters of Credit shall reflect only the amount available for the effective period of the resolution.

(b) [Reserved]

(c) The State agency shall release to FNS any Federal funds made available to it under the Program which are unobligated at the end of each fiscal year. Release of funds by the State agency shall be made as soon as practicable but in no event later than 30 days following demand by FNSRO, and shall be reflected by a related adjustment in the State agency's Letter of Credit.

[Amdt. 13, 39 FR 28416, Aug. 7, 1974, as amended by Amdt. 14, 41 FR 31174, July 27, 1976]

### §215.6 Use of funds.

(a) Federal funds made available under the Program shall be used to encourage the consumption of milk through reimbursement payments to schools and child-care institutions in connection with the purchase and service of milk to children in accordance with the provisions of this part: *Provided, however*, That, with the approval of FNS, any State agency, or FNSRO where applicable, may reserve for use in carrying out special developmental projects an amount equal to not more than 1 per centum of the Federal funds so made available for any fiscal year.

(b) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property provided under this part, whether received directly or indirectly from the Department, shall: (1) If such funds, assets, or property are of a value of \$100 or more, be fined not more than \$25,000 or imprisoned not more than 5 years or both; or (2) if such funds, assets, or property are of a value of less than \$100, be fined not more than \$1,000 or imprisoned not more than one year or both.

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(c) Whoever receives, conceals, or retains to his use or gain funds, assets, or property provided under this part, whether received directly or indirectly from the Department, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud, shall be subject to the same penalties provided in paragraph (b) of this section.

(Sec. 10(a), Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1760); sec. 10(d)(3), Pub. L. 95-627, 92 Stat. 3624 (42 U.S.C. 1757); sec. 14, Pub. L. 95-627, 92 Stat. 3625-3626; 44 U.S.C. 3506)

[Amdt. 14, 41 FR 31174, July 27, 1976, as amended by Amdt. 18, 44 FR 37898, June 29, 1979; 47 FR 746, Jan. 7, 1982; 64 FR 50741, Sept. 20, 1999]

### §215.7 Requirements for participation.

(a) Any school or nonprofit child care institution shall receive the Special Milk Program upon request provided it does not participate in a meal service program authorized under the Child Nutrition Act of 1966 or the National School Lunch Act; except that schools with such meal service may receive the Special Milk Program upon request only for the children attending split-session kindergarten programs who do not have access to the meal service. Each School Food Authority or child-care institution shall make written application to the State agency, or FNSRO where applicable, for any school or child-care institution in which it desires to operate the Program, if such school or child-care institution did not participate in the Program in the prior fiscal year.

(b) Any School Food Authority or child care institution participating in the Program may elect to serve free milk to children eligible for free meals. Upon application for the Program, each School Food Authority or child care institution:

(1) Shall be required by the State agency, or FNSRO where applicable, to state whether or not it wishes to provide free milk in the schools or institutions participating under its jurisdiction and

(2) If it so wishes to provide free milk, shall also submit for approval a free milk policy statement which, if for a school, shall be in accordance with part 245 of this chapter or, if for a child