

Food and Nutrition Service, USDA

§ 248.12

farmers' markets, based upon the severity and nature of the FMNP violations observed, and such other factors as the State agency determines appropriate, such as whether repeated offenses have occurred over a period of time. Farmers/farmers' markets may be sanctioned, disqualified, or both, when appropriate. Sanctions may include fines for improper FMNP coupon redemption procedures and the penalties outlined in § 248.20, in case of deliberate fraud. In those instances where compliance purchases are conducted, the results of covert compliance purchases can be a basis for farmer/farmers' market sanctions. A farmer/farmers' market committing fraud or other unlawful activities is liable to prosecution under applicable Federal, State or local laws. State agency policies shall ensure that a farmer that is disqualified from the FMNP at one market or roadside stand shall not participate in the FMNP at any other farmers' market or roadside stand in the State's jurisdiction during the disqualification period.

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49746, Sept. 27, 1995; 73 FR 65250, Nov. 3, 2008; 81 FR 66496, Sept. 28, 2016]

§ 248.11 Financial management system.

(a) *Disclosure of expenditures.* The State agency shall maintain a financial management system which provides accurate, current and complete disclosure of the financial status of the FMNP. This shall include an accounting for all property and other assets and all FMNP funds received and expended each fiscal year.

(b) *Internal controls.* The State agency shall maintain effective controls over and accountability for all FMNP funds. The State agency must have effective internal controls to ensure that expenditures financed with FMNP funds are authorized and properly chargeable to the FMNP.

(c) *Record of expenditures.* The State agency shall maintain records which adequately identify the source and use of funds expended for FMNP activities. These records shall contain, but are not limited to, information pertaining to authorization, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays, and income.

(d) *Payment of costs.* The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocability of costs in accordance with the cost principles and standard provisions of this part, 2 CFR part 200, subparts D and E and USDA implementing regulations 2 CFR part 400 and part 415, and FNS guidelines and Instructions.

(e) *Identification of obligated funds.* The State agency shall implement procedures which accurately identify obligated FMNP funds at the time the obligations are made.

(f) *Resolution of audit findings.* The State agency shall implement procedures which ensure timely and appropriate resolution of claims and other matters resulting from audit findings and recommendations.

(g) *Reconciliation of food instruments.* The State agency shall reconcile FMNP coupons in accordance with § 248.10(h).

(h) *Transfer of cash.* The State agency shall establish the timing and amounts of its cash draws against its Letter of Credit in accordance with 31 CFR part 205.

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49747, Sept. 27, 1995; 81 FR 66496, Sept. 28, 2016]

§ 248.12 FMNP costs.

(a) *General*—(1) *Composition of allowable costs.* In general, a cost item will be deemed allowable if it is reasonable and necessary for FMNP purposes and otherwise satisfies allowability criteria set forth in 2 CFR part 200, subpart E and USDA implementing regulations 2 CFR part 400 and part 415 and this part. FMNP purposes include the administration and operation of the FMNP. Program costs supported by State matching contributions must meet the same criteria for allowability as costs supported by Federal funds. Allowable FMNP costs may be classified as follows:

(i) *Food costs and administrative costs.* Food costs are the costs of food benefits provided to FMNP recipients. Administrative costs are the costs associated with providing FMNP benefits and

services to recipients and generally administering the FMNP. Specific examples of allowable administrative costs are listed in paragraph (b) of this section. Except as provided in § 248.14(g) of this part, a State agency's administrative costs under the FMNP may not exceed 17 percent of its total FMNP costs. Any costs incurred for food and/or administration above the Federal grant level will be the State agency's responsibility.

(ii) *Market development or technical assistance costs.* Market development or technical assistance costs are those costs under § 248.14(h) incurred to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables. Subject to a determination by the Secretary under § 248.14(h), a State agency may, during any fiscal year, use not more than 2 percent of total program funds for such market development or technical assistance.

(iii) *Direct and indirect costs.* Direct costs are food and administrative costs incurred specifically for the FMNP. Indirect costs are administrative costs that benefit multiple programs or activities, and cannot be identified to any one without effort disproportionate to the results achieved. In accordance with the provisions of 2 CFR part 200, subpart E and USDA implementing regulations 2 CFR part 400 and part 415, a claim for reimbursement of indirect costs shall be supported by an approved allocation plan for the determination of such costs. An indirect cost rate developed through such an allocation plan may not be applied to a base that includes food costs.

(2) *Costs allowable with prior approval.* A State or local agency must obtain prior approval in accordance with 2 CFR part 200, subpart E and USDA implementing regulations 2 CFR part 400 and part 415 before charging to the FMNP any capital expenditures and other cost items designated by 2 CFR part 200, subpart E and USDA implementing regulations 2 CFR part 400 and part 415 as requiring such approval.

(3) *Unallowable costs.* Costs that are not reasonable and necessary for

FMNP purposes, or that do not otherwise satisfy the cost principles of 2 CFR part 200, subpart E, and USDA implementing regulations 2 CFR parts 400 and 415, are unallowable. Notwithstanding any other provision of 2 CFR part 200, subparts D and E, and USDA implementing regulations 2 CFR parts 400 and 415, the cost of constructing or operating a farmers' market is unallowable. Unallowable costs may never be claimed for Federal reimbursement or counted toward the State matching requirement.

(b) *Specified allowable administrative costs.* Allowable administrative costs include the following:

(1) The costs associated with the provision of nutrition education which meets the requirements of § 248.9 of this part.

(2) The costs of FMNP coupon issuance, or recipient education covering proper coupon redemption procedures.

(3) The cost of outreach services.

(4) The costs associated with the food delivery process, such as printing FMNP coupons, processing redeemed coupons, and training market managers on the food delivery system.

(5) The cost of monitoring and reviewing Program operations.

(6) The cost of FMNP training.

(7) The cost of required reporting and recordkeeping.

(8) The cost of determining which local WIC sites will be utilized.

(9) The cost of recruiting and authorizing farmers/farmers' markets to participate in the FMNP.

(10) The cost of preparing contracts for farmers/farmers' markets and local WIC providers.

(11) The cost of developing a data processing system for redemption and reconciliation of FMNP coupons.

(12) The cost of designing program training and informational materials.

(13) The cost of coordinating FMNP implementation responsibilities between designated administering agencies.

[59 FR 11517, Mar. 11, 1994, as amended at 60 FR 49747, Sept. 27, 1995; 81 FR 66496, Sept. 28, 2016; 83 FR 14174, Apr. 3, 2018]