

§ 249.13

home-delivery and bulk purchase operations, and training farmers, market managers, and/or farmers who operate CSA programs on SFMNP operations;

(6) The cost of monitoring and reviewing Program operations;

(7) The cost of SFMNP training;

(8) The cost of required reporting and recordkeeping;

(9) The cost of determining which local sites will be utilized;

(10) The cost of recruiting and authorizing farmers, farmers' markets, roadside stands, and/or CSA programs to participate in the SFMNP;

(11) The cost of preparing contracts for farmers, farmers' markets, roadside stands, and/or CSA programs;

(12) The cost of developing a data processing system for redemption and reconciliation of SFMNP coupons;

(13) The cost of designing program training and informational materials; and

(14) The cost of coordinating SFMNP responsibilities between designated administering agencies.

[71 FR 74630, Dec. 12, 2006, as amended at 81 FR 66497, Sept. 28, 2016; 83 FR 14174, Apr. 3, 2018]

§ 249.13 Program income.

Program income means gross income the State agency earns from grant supported activities. It includes fees for services performed and receipts from the use or rental of real or personal property acquired with Federal grant funds, but does not include proceeds from the disposition of such property. The State agency must retain Program income earned during the agreement period and use it for Program purposes in accordance with the addition method described in 2 CFR part 200, subpart D, Post Federal Award Requirements and USDA implementing regulations 2 CFR part 400 and part 415. Fines, penalties or assessments paid by local agencies or farmers, farmers' markets, roadside stands, and/or CSA program are also deemed to be Program income. The State agency must ensure that the sources and applications of Program income are fully documented.

[71 FR 74630, Dec. 12, 2006, as amended at 81 FR 66497, Sept. 28, 2016]

7 CFR Ch. II (1–1–23 Edition)

§ 249.14 Distribution of funds to State agencies.

(a) *State Plan and agreement.* As a prerequisite to the receipt of Federal funds, a State agency must have its State Plan approved and must execute an agreement with FNS in accordance with § 249.3(c).

(b) *Distribution of SFMNP funds to previously participating State agencies.* Provided that sufficient SFMNP funds are available, each State agency that participated in the SFMNP in any prior fiscal year shall receive not less than the amount of funds the State agency received in the most recent fiscal year in which it received funding, if it otherwise complies with the requirements established in this Part.

(c) *Ratable reduction.* If amounts appropriated for any fiscal year for grants under the SFMNP are not sufficient to pay to each previously participating State agency at least an amount as identified in paragraph (b) of this section, each State agency's grant must be ratably reduced. However, to the extent permitted by available funds, each State agency shall receive at least \$75,000 or the amount that the State agency received for the most recent prior fiscal year in which the State participated, if that amount is less than \$75,000.

(d) *Expansion of participating State agencies and establishment of new State agencies.* Any SFMNP funds remaining for allocation after meeting the requirements of paragraph (b) of this section shall be allocated in the following manner:

(1) Of the remaining funds, 75 percent shall be made available to State agencies already participating in the SFMNP that wish to serve additional participants or increase the current benefit level. If this amount is greater than that necessary to satisfy all State Plans approved for expansion, the unallocated amount shall be applied toward satisfying any unmet need in paragraph (d)(2) of this section.

(2) Of the remaining funds, 25 percent shall be made available to State agencies that have not participated in the SFMNP in any prior fiscal year. If this amount is greater than that necessary to satisfy the approved State Plans for new States, the unallocated amount

Food and Nutrition Service, USDA

§ 249.15

shall be applied toward satisfying any unmet need in paragraph (d)(1) of this section. FNS reserves the right not to fund every State agency with an approved State Plan.

(e) *Expansion for current State agencies.* In providing funds to State agencies that participated in the SFMNP in the previous fiscal year, FNS must consider on a case-by-case basis the following factors:

(1) Whether the State agency utilized at least 80 percent of its prior year food grant. States that did not spend at least 80 percent of their prior year food grant may still be eligible for expansion funding if, in the judgment of FNS, good cause existed which was beyond the management control of the State, such as severe weather conditions or unanticipated decreases in participant caseload;

(2) Documentation supporting the funds expansion request as outlined in § 249.4(a)(23); and

(3) Whether the State agency currently issues a participant benefit greater than \$50. Such State agencies will not be eligible to receive additional SFMNP funds for expansion until the maximum participant benefit no longer exceeds \$50.

(f) *Funding of new State agencies.* Funds will be awarded to new SFMNP State agencies in accordance with § 249.5.

(g) *Administrative funding.* A State agency will have available for administrative costs an amount not greater than 10 percent of the total SFMNP funds it receives.

(h) *Recovery of unused funds.* State agencies must return to FNS any unexpended funds made available for a given fiscal year by February 1 of the following fiscal year.

§ 249.15 Closeout procedures.

(a) *General.* State agencies must submit to FNS a final closeout report for the fiscal year on a form prescribed by FNS and on a date specified by FNS.

(b) *Grant closeout procedures.* When grants to State agencies are terminated, the following procedures shall be followed in accordance with 2 CFR part 200, subpart D and USDA implementing regulations 2 CFR part 400 and part 415.

(1) FNS may disqualify a State agency's participation under the SFMNP, in whole or in part, or take such remedies as may be appropriate, whenever FNS determines that the State agency failed to comply with the conditions prescribed in this part, in its Federal-State Agreement, or in FNS guidelines and Instructions. FNS will promptly notify the State agency in writing of the disqualification together with the effective date.

(2) FNS may terminate a grant when both parties agree that continuation under the SFMNP would not produce beneficial results commensurate with the further expenditure of funds.

(3) Upon termination of a grant, the affected agency may not incur new obligations after the effective date of the disqualification, and must cancel as many outstanding obligations as possible. FNS will allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to disqualification, and the State agency shall do the same for farmers, farmers' markets, roadside stands, and/or CSA programs.

(4) A grant closeout shall not affect the retention period for, or Federal rights of access to, SFMNP records as specified in § 249.23(a). The closeout of a grant does not affect the responsibilities of the State agency regarding property or with respect to any SFMNP income for which the State agency is still accountable.

(5) A final audit is not a required part of the grant closeout and should not be needed unless there are problems with the grant that require attention. If FNS considers a final audit to be necessary, it shall so inform OIG. OIG will be responsible for ensuring that necessary final audits are performed and for any necessary coordination with other Federal cognizant audit agencies or State or local auditors. Audits performed in accordance with § 249.18 may serve as final audits providing such audits meet the needs of requesting agencies. If the grant is closed out without an audit, FNS reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting