

## Food and Nutrition Service, USDA

## § 210.21

list, upon request, to sponsoring organizations of day care homes participating in the Child and Adult Care Food Program.

[53 FR 29147, Aug. 2, 1988, as amended at 54 FR 12582, Mar. 28, 1989; 56 FR 32947, July 17, 1991; 57 FR 38586, Aug. 26, 1992; 59 FR 1894, Jan. 13, 1994; 60 FR 31215, June 13, 1995; 60 FR 57147, Nov. 14, 1995; 62 FR 901, Jan. 7, 1997; 63 FR 9104, Feb. 24, 1998; 64 FR 50741, Sept. 20, 1999; 65 FR 26912, 26922, May 9, 2000]

### § 210.20 Reporting and recordkeeping.

(a) *Reporting summary.* Participating State agencies shall submit forms and reports to FNS to demonstrate compliance with Program requirements. The reports include but are not limited to:

(1) Requests for cash to make reimbursement payments to school food authorities as required under § 210.5(a);

(2) Information on the amounts of Federal Program funds expended and obligated to date (SF-269) as required under § 210.5(d);

(3) Statewide totals on Program participation (FNS-10) as required under § 210.5(d);

(4) Information on State funds provided by the State to meet the State matching requirements (FNS-13) specified under § 210.17(g);

(5) The names of school food authorities in need of a follow-up review;

(6) Results of reviews and audits; and

(7) Results of the commodity preference survey and recommendations for commodity purchases as required under § 250.13(k) of this chapter.

(b) *Recordkeeping summary.* Participating State agencies are required to maintain records to demonstrate compliance with Program requirements. The records include but are not limited to:

(1) Accounting records and source documents to control the receipt, custody and disbursement of Federal Program funds as required under § 210.5(a);

(2) Documentation supporting all school food authority claims paid by the State agency as required under § 210.5(d);

(3) Documentation to support the amount the State agency reported having used for State revenue matching as required under § 210.17(h);

(4) Records supporting the State agency's review of net cash resources as required under § 210.19(a);

(5) Reports on the results of investigations of complaints received or irregularities noted in connection with Program operations as required under § 210.19(a)

(6) Records of all reviews and audits, including records of action taken to correct Program violations; and records of fiscal action taken, including documentation of recoveries made;

(7) State agency criteria for selecting schools for reviews and small school food authorities for follow-up reviews;

(8) Documentation of action taken to disallow improper claims submitted by school food authorities, as required by § 210.19(c) and as determined through claims processing, resulting from actions such as reviews, audits and USDA audits;

(9) Records of USDA audit findings, State agency's and school food authorities' responses to them and of corrective action taken as required by § 210.22(a);

(10) Records pertaining to civil rights responsibilities as defined under § 210.23(b); and

(11) Records pertaining to the annual food preference survey of school food authorities as required by § 250.13(k) of this chapter.

[53 FR 29147, Aug. 2, 1988, as amended at 56 FR 32948, July 17, 1991; 56 FR 55527, Oct. 28, 1991; 64 FR 50741, Sept. 20, 1999]

## Subpart E—State Agency and School Food Authority Responsibilities

### § 210.21 Procurement.

(a) *General.* State agencies and school food authorities shall comply with the requirements of 7 CFR part 3015 concerning the procurement of supplies, food, equipment and other services with Program funds. These requirements ensure that such materials and services are obtained for the Program efficiently and economically and in compliance with applicable laws and executive orders.

(b) *Contractual responsibilities.* The standards contained in 7 CFR part 3015 do not relieve the State agency or

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school food authority of any contractual responsibilities under its contracts. 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) *Procurement procedure.* The State agency or school food authority may use its own procurement procedures which reflect applicable State and local laws and regulations, *provided that* procurements made with Program funds adhere to the standards set forth in 7 CFR part 3015.

(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 using agricultural commodities that are produced in the United States.

(2) *Requirement.* (i) *In general.* Subject to paragraph (d)(2)(ii) of this section, the Department shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(ii) *Limitations.* Paragraph (d)(2)(i) of this section shall apply only to—

(A) A school food authority located in the contiguous United States; and

(B) A purchase of domestic commodity or product for the school lunch program under this part.

(3) *Applicability to Hawaii.* Paragraph (d)(2)(i) of this section shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this part.

[53 FR 29147, Aug. 2, 1988, as amended at 64 FR 50741, Sept. 20, 1999]

## 7 CFR Ch. II (1–1–03 Edition)

### § 210.22 Audits.

(a) *General.* State agencies and school food authorities shall comply with the requirements of 7 CFR part 3015 concerning the audit requirements for recipients and subrecipients of the Department’s financial assistance.

(b) *Audit procedure.* These requirements call for organization-wide financial and compliance audits to ascertain whether financial operations are conducted properly; financial statements are presented fairly; recipients and subrecipients comply with the laws and regulations that affect the expenditures of Federal funds; recipients and subrecipients have established procedures to meet the objectives of federally assisted programs; and recipients and subrecipients are providing accurate and reliable information concerning grant funds. States and school food authorities shall use their own procedures to arrange for and prescribe the scope of independent audits, provided that such audits comply with the requirements set forth in 7 CFR part 3015.

### § 210.23 Other responsibilities.

(a) *Free and reduced price lunches and meal supplements.* State agencies and school food authorities shall ensure that lunches and meal supplements are made available free or at a reduced price to all children who are determined by the school food authority to be eligible for such benefits. The determination of a child’s eligibility for free or reduced price lunches and meal supplements is to be made in accordance with 7 CFR part 245.

(b) *Civil rights.* In the operation of the Program, no child shall be denied benefits or be otherwise discriminated against because of race, color, national origin, age, sex, or disability. State agencies and school food authorities shall comply with the requirements of: Title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Department of Agriculture regulations on nondiscrimination (7 CFR parts 15, 15a, and 15b); and FNS Instruction 113–6.

(c) *Retention of records.* State agencies and school food authorities may