

Food and Nutrition Service, USDA

§ 247.5

part 250 subchapter B where applicable. The State agency shall provide guidance to local agencies on all aspects of Program operations. If distribution of supplemental foods or other Program operations at the State level are performed by an agency of the State other than the State agency, the State agency shall enter into a written agreement with the other agency. The agreement shall outline the responsibilities of each agency under the Program and shall be included in the State Plan. In addition, when a State agency enters into an agreement with a distributing agency, the distributing agency still must enter into a separate agreement with the Department as required by 7 CFR part 250 subchapter B, Food Distribution.

(c) *Agreement and State plan.* Each State agency desiring to administer the Program shall annually submit a State Plan and enter into a written agreement with the Department for the administration of the Program in the jurisdiction of the State agency in accordance with the provisions of this part.

(d) *Delegation of authority to local agency.* The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part and the State Plan.

(Approved by the Office of Management and Budget under control number 0584-0063)

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982]

§ 247.4 Donation of supplemental foods.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part and with the terms and conditions applicable to distributing agencies under 7 CFR part 250 subchapter B, Food Distribution Regulations, as long as these provisions are not inconsistent with this part. The State agency is strictly liable to FNS for losses of supplemental foods donated by the Department and shall safeguard items from theft, spoilage, other damage or destruction or other loss. If supplemental foods donated by the Department are lost through any cause, prior to issuance to the partici-

part, the State agency shall provide replacement in kind or submit payment to FNS in accordance with § 250.6(m) under 7 CFR part 250 subchapter B, Food Distribution regulations.

§ 247.5 State agency plan of program operation and administration.

(a) *Requirements.* State applications to continue or initiate program operations and requests for additional caseload to expand service to women, infants, children, and elderly persons shall be made through State Plan submissions. By August 15 of each year, the State agency shall submit to FNS for approval a State Plan for the following fiscal year. State agencies whose Plans are approved by the beginning of the fiscal year shall be eligible to commence program operations or receive caseload increases at the beginning of the first caseload cycle to commence after that date. Plans or Plan amendments to initiate or expand operations which are approved after this date may be considered for caseload assignment if additional resources become available during that caseload cycle. The State agency may submit the State Plan in the format provided by FNS guidance. Alternatively, the State agency may submit the Plan in combination with other federally required planning documents or develop its own format, provided that the information required below is included. FNS requests advance notification that a State agency intends to use an alternative format. The State Plan and all amendments shall be signed by the State-designated official responsible for ensuring that the program is operated in accordance with the State Plan. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete submission, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the assignment of caseload and payment of funds for administration to the State agency. In approving the State Plan or Plan amendment to initiate or

expand program operations, FNS shall specify the number of caseload slots it believes the State agency can use, and which the State agency has the administrative capacity to manage. This determination shall be based on the content of the Plan or amendment, demographic data, past performance of the State agency, and other information which FNS considers relevant. Portions of the State Plan which do not change from year to year need not be resubmitted. However, the State agency shall provide the title of each section that remains unchanged, as well as the year of the last Plan in which the section was submitted. The State Plan shall provide the following:

(1) The names and addresses of each local agency (i) which have an agreement with the State agency for Program administration; and (ii) the name and address of each certification, food distribution and storage site under the jurisdiction of the local agency.

(2) The specific income criteria and nutritional risk criteria (if used) to be used in certifying persons as being in need of supplemental foods and the period of time covered by certifications in each local agency.

(3) A description of any plans for requesting program expansion or major redistribution of caseloads within the State during the fiscal year.

(4) A description of any plans for conducting outreach to ensure that all women, infants, and children, and elderly persons are aware of program benefits.

(5) The plan for nutrition education services for the fiscal year. The nutrition education portion of the State Plan shall include an evaluation component which includes a systematic procedure for participants' input.

(6) A detailed description of the manner in which foods are distributed to each local agency and to participants by the local agency.

(7) A description of the manner in which the State agency plans to monitor each local agency.

(8) A description of plans to involve local agencies, participants and other interested parties in the development of the State Plan for the next fiscal year.

(9) A description of how the financial management system will provide an accurate, current and complete disclosure of the financial status of the State's Program including an accurate accounting of all administrative funds received and expended.

(10) A plan for the detection of dual participation within the jurisdiction of the State agency. In States where the CSFP and either an Indian State agency for CSFP or a WIC Program State agency operate in the same area, a copy of the written agreement between the State agencies for the detection and prevention of dual participation must be submitted.

(11) Procedures developed in accordance with §250.6(u) and provided to local agencies for reporting, processing and resolving complaints about supplemental foods.

(12) A description of the audit procedures, including: (i) A description of the scope and frequency of audits of the State agency and local agencies and a delineation of the procedures used that assure audit examinations of the CSF Program at reasonable frequency. Audit agency guidelines for selecting a sample of grant programs for audits should be addressed; (ii) a description of the audit organization in sufficient detail to demonstrate the independence of the audit organization; and (iii) the number of local agencies in which the CSF Program was included in the audit in the last four full quarters, and the number of local agency audits planned for the coming fiscal year which include examinations of the CSF Program.

(13) A description of the procedures used to comply with the non-discrimination requirements of title VI of the Civil Rights Act of 1964, the FNS Civil Rights Instruction 113-2 and with 7 CFR part 15, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process.

(14) A description of the fair hearing procedures for participants.

(15) If a State agency wishes to initiate service to the elderly, or request expansion caseload to serve the elderly, a description of plans for providing program benefits to elderly persons within

Food and Nutrition Service, USDA

§ 247.6

the State during the caseload cycle. Such description shall include—

(i) An identification of the elderly population to be served, including documentation of the extent of need in the proposed service area; and

(ii) A description of the means by which the State agency will meet the needs of the homebound elderly.

(b) *Submission of local agency information.* Local agencies under the State agency's jurisdiction may be required to submit information, similar to the preceding requirements, to the State agency for its use in assuring compliance with this section.

(c) *Amendments.* Except as provided in paragraph (a) of this section, the State agency may amend the State Plan at any time. The State agency shall submit the amendments to FNS for approval.

(d) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

(Approved by the Office of Management and Budget under control number 0584-0063)

(44 U.S.C. 3506; E.O. 12372 (July 14, 1982, 47 FR 30959); secs. 401(b), Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4231(b)))

[46 FR 6341, Jan. 21, 1981, as amended at 47 FR 746, Jan. 7, 1982; 48 FR 29123, June 24, 1983; 51 FR 32900, Sept. 17, 1986; 53 FR 4838, Feb. 18, 1988; 62 FR 55145, Oct. 23, 1997]

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit a written application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. If the State agency and the local agency are the same, this requirement does not apply. The State agency shall notify the agency of the approval or disapproval of its application within 30 days of receipt of the agency's application. If the application is denied the State agency shall advise the agency of the reasons for the denial in writing and the right to appeal as set forth in § 247.22 of this part. When an agency submits an application and there are no funds to serve the area, the applicant agency shall be notified within 30 days of receipt of the applica-

tion that there are currently no funds available for Program initiation or expansion. The State agency shall return the application and maintain a record of the name and address of the applicant agency. The potential agency whose application was returned shall be notified by the State agency when funds become available. The State agency may approve the application of a local agency in an area already served by the Program or a WIC program only if a new local agency is necessary to serve the full extent of need in that area or population. If the State agency approves the operation of a new local agency in an area already served by an existing Program or a WIC Program, documentation which indicates the need for both local agencies in that area shall be maintained on file at the State agency for FNS review and evaluation.

(b) *Agreements between State and local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. If the State agency and the local agency are the same, this requirement does not apply. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit. Such agreements shall be in writing and shall contain the following:

(i) An assurance that local agencies will comply with all the fiscal and operational requirements prescribed by the State agency as required by this part; (ii) an assurance that local agencies will provide nutrition education as required by this part; (iii) for those local agencies in existence prior to March 3, 1978, an assurance that they will continue arrangements with health service providers for the provision of services to Program participants at least at the level that existed on March 2, 1978, and for other local agencies, an assurance that they will advise participants of the importance of health care and where low-income persons can obtain such care; (iv) an assurance that issuance of supplemental food is in accordance with this part and FNS food package instructions; (v) a statement that local agencies are responsible to the State agency for any loss resulting from improper