

**§ 246.21**

**7 CFR Ch. II (1–1–05 Edition)**

shall submit a response or statement to FNS as to the action taken or a proposed corrective action plan regarding the findings. A proposed corrective action plan developed and submitted by the State agency shall include specific timeframes for its implementation and for completion of correction of deficiencies and their causes.

(3) FNS will determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a follow-up review, allowing a reasonable time for such corrective action to be taken.

(b) *State audit responsibilities.* (1) State agencies shall comply with the provisions of 7 CFR part 3016 regarding independent organization-wide audits of financial operations. In conformance with 7 CFR part 3016, State agencies shall arrange for independent audits of financial operations, including compliance with appropriate provisions of Federal laws and regulations, and shall ensure that audits are made on an organization-wide basis rather than on a program basis. When organization-wide audits are done the State agency shall cause procedures to be established which ensure that FNS programs are included in the universe of Federal awards from which a sample is drawn.

(2) Such organization-wide audits shall be used to determine whether—

(i) Financial operations are conducted properly;

(ii) Financial statements are presented fairly;

(iii) State and local agencies are complying with the laws, regulations and administrative requirements that affect the expenditure of Federal funds;

(iv) State and local agencies have established internal procedures to meet the financial management objectives of federally assisted programs; and

(v) State and local agencies are providing accurate and reliable information to the Federal government. If such agencies fail to arrange for the required audits at the appropriate frequency or fail to ensure that an acceptable audit is performed at the appropriate frequency, the respective cognizant audit agencies may arrange for the performance of the required audits. If the cognizant audit agencies arrange

for the required audits because of these circumstances, the State agencies shall reimburse the respective cognizant audit agencies for the pro rata cost of their organization-wide audits.

(3) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of nutrition services and administration costs and may be funded from the State or local agency nutrition services and administration funds, as appropriate. For purposes of determining the Program's pro rata share of indirect costs associated with organization-wide audits, the cost of food shall not be considered in the total dollar amount of the Program.

**§ 246.21 Investigations.**

(a) *Authority.* The Department may make an investigation of any allegation of noncompliance with this part and FNS guidelines and instructions. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) *Confidentiality.* No State or local agency, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because that person has made a complaint or formal allegation, or has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conducting of any investigation, hearing, or judicial proceeding.