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possible to the actual date that disbursement of funds is made. Advances made by the State agency to local agencies shall also conform to these same standards.

(j) *Local agency financial management.* The State agency shall ensure that all local agencies develop and implement a financial management system consistent with requirements prescribed by FNS and the State agency pursuant to the requirements of this section.

[50 FR 6121, Feb. 13, 1985; 50 FR 8098, Feb. 28, 1985]

EFFECTIVE DATE NOTE: At 65 FR 83286, Dec. 29, 2000, in §246.13 paragraph (h) was revised, eff. Feb. 27, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 246.13 Financial management system.

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(h) *Adjustment of expenditures.* The State agency must adjust projected expenditures to account for redeemed food instruments and for other changes as appropriate.

§ 246.14 Program costs.

(a) *General.* (1) The two kinds of allowable costs under the Program are "food costs" and "nutrition services and administration costs." In general, costs necessary to the fulfillment of Program objectives are to be considered allowable costs. The two types of nutrition services and administration costs are:

(i) *Direct costs.* Those direct costs that are allowable under 7 CFR part 3016.

(ii) *Indirect costs.* Those indirect costs that are allowable under 7 CFR part 3016. When computing indirect costs, food costs may not be used in the base to which the indirect cost rate is applied. In accordance with the provisions of 7 CFR part 3016, a claim for indirect costs shall be supported by an approved allocation plan for the determination of allowable indirect costs.

(2) Except as provided in paragraph (e) of this section and §§246.16(g) and 246.16(h) of this part, funds allocated by FNS for food purchases may not be used to pay nutrition services and administration costs. However, nutrition services and administration funds may be used to pay for food costs.

(b) *What costs may I charge to the food grant?*

(1) The State agency may use food funds for costs of:

(i) Acquiring supplemental foods provided to State or local agencies or participants, whichever receives the supplemental food first;

(ii) Warehousing supplemental foods; and

(iii) Purchasing and renting breast pumps.

(2) For costs to be allowable, the State agency must ensure that food costs do not exceed the vendor's customary sales price. For example, in retail purchase systems, food costs may not exceed the shelf price of the supplemental food provided.

(c) *Specified allowable nutrition services and administration costs.* Allowable nutrition services and administration (NSA) costs include the following:

(1) The cost of nutrition education and breastfeeding promotion and support which meets the requirements of §246.11. During each fiscal year, each State agency shall expend, for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of one-sixth of the amount expended by the State agency for costs of NSA and an amount equal to its proportionate share of the national minimum expenditure for breastfeeding promotion and support activities. The amount to be spent on nutrition education shall be computed by taking one-sixth of the total fiscal year NSA expenditures. The amount to be spent by a State agency on breastfeeding promotion and support activities shall be an amount that is equal to at least its proportionate share of the national minimum breastfeeding promotion expenditure as specified in paragraph (c)(1) of this section. The national minimum expenditure for breastfeeding promotion and support activities shall be equal to \$21 multiplied by the number of pregnant and breastfeeding women in the Program, based on the average of the last three months for which the Department has final data. On October 1, 1996 and each October 1 thereafter, the \$21 will be adjusted annually using the

same inflation percentage used to determine the national administrative grant per person. If the State agency's total reported nutrition education and breastfeeding promotion and support expenditures are less than the required amount of expenditures, FNS will issue a claim for the difference. The State agency may request prior written permission from FNS to spend less than the required portions of its NSA grant for either nutrition education or for breastfeeding promotion and support activities. FNS will grant such permission if the State agency has sufficiently documented that other resources, including in-kind resources, will be used to conduct these activities at a level commensurate with the requirements of this paragraph (c)(1). However, food costs used to purchase or rent breast pumps may not be used for this purpose. Nutrition education costs are limited to activities which are distinct and separate efforts to help participants understand the importance of nutrition to health. The cost of dietary assessments for the purpose of certification, the cost of prescribing and issuing supplemental foods, the cost of screening for drug and other harmful substance use and making referrals to drug and other harmful substance abuse services, and the cost of other health-related screening shall not be applied to the expenditure requirement for nutrition education and breastfeeding promotion and support activities. The Department shall advise State agencies regarding methods for minimizing documentation of the nutrition education and breastfeeding promotion and support expenditure requirement. Costs to be applied to the one-sixth minimum amount required to be spent on nutrition education and the target share of funds required to be spent on breastfeeding promotion and support include, but need not be limited to—

(i) Salary and other costs for time spent on nutrition education and breastfeeding promotion and support consultations whether with an individual or group;

(ii) The cost of procuring and producing nutrition education and breastfeeding promotion and support materials including handouts, flip

charts, filmstrips, projectors, food models or other teaching aids, and the cost of mailing nutrition education or breastfeeding promotion and support materials to participants;

(iii) The cost of training nutrition or breastfeeding promotion and support educators, including costs related to conducting training sessions and purchasing and producing training materials;

(iv) The cost of conducting evaluations of nutrition education or breastfeeding promotion and support activities, including evaluations conducted by contractors;

(v) Salary and other costs incurred in developing the nutrition education and breastfeeding promotion and support portion of the State Plan and local agency nutrition education and breastfeeding promotion and support plans; and

(vi) The cost of monitoring nutrition education and breastfeeding promotion and support activities.

(2) The cost of Program certification, nutrition assessment and procedures and equipment used to determine nutritional risk, including the following:

(i) Laboratory fees incurred for up to two hematological tests for anemia per individual per certification period. The first test shall be to determine anemia status. The second test may be performed only in follow up to a finding of anemia when deemed necessary for health monitoring as determined by the WIC State agency;

(ii) Expendable medical supplies;

(iii) Medical equipment used for taking anthropometric measurements, such as scales, measuring boards, and skin fold calipers; and for blood analysis to detect anemia, such as spectrophotometers, hematofluorometers and centrifuges; and

(iv) Salary and other costs for time spent on nutrition assessment and certification.

(3) The cost of outreach services.

(4) The cost of administering the food delivery system, including the cost of transporting food.

(5) The cost of translators for materials and interpreters.

(6) The cost of fair hearings, including the cost of an independent medical

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assessment of the appellant, if necessary.

(7) The cost of transporting rural participants to clinics when prior approval for using Program funds to provide transportation has been granted by the State agency and documentation that such service is considered essential to assure Program access has been filed at the State agency. Direct reimbursement to participants for transportation cost is not an allowable cost.

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

(9) The cost, exclusive of laboratory tests, of screening for drug and other harmful substance use and making referrals for counseling and treatment services.

(10) The cost of breastfeeding aids which directly support the initiation and continuation of breastfeeding.

(d) *Costs allowable with approval.* The following costs are allowable only with the prior approval of FNS:

(1) Automated information systems which are required by a State or local agency except for those used in general management and payroll, including acquisition of automatic data processing hardware or software whether by outright purchase, rental-purchase agreement or other method of acquisition. Approval shall be granted by FNS if the proposed system meets the requirements of this part, A-130, and 7 CFR part 3016. At the time the State agency decides to seek computerization, except for use in general management or payroll, it shall inform FNS and seek approval, if required.

(2) Capital expenditures over \$2,500.00, such as the cost of facilities, equipment, including medical equipment, other capital assets and any repairs that materially increase the value of useful life of capital assets.

(3) Management studies performed by agencies or departments other than the State or local agency or those performed by outside consultants under contract with the State or local agency.

(e) *How and when may I use my funds recovered from vendors and participants?*

(1) The State agency may keep funds collected through the recovery of claims assessed against food vendors or participants. Recovered funds include

those withheld from a vendor as a result of reviews of food instruments prior to payment. Recovered funds may be used for either food or NSA costs.

(2) These recovered funds may be used in the fiscal year:

(i) In which the initial obligation was made;

(ii) In which the claim arose;

(iii) In which the funds are collected; or

(iv) after the funds are collected.

(3) The State agency may not credit any recoveries until:

(i) In the case of a vendor claim, the vendor has had the opportunity to correct or justify the error or apparent overcharge in accordance with § 246.12(r)(5)(iii); or

(ii) In the case of a participant, any administrative hearing requested in accordance with § 246.9 has been completed.

(4) The State agency must report vendor and participant recoveries to FNS through the normal reporting process;

(5) The State agency must keep documentation supporting the amount and use of these vendor and participant recoveries.

[50 FR 6121, Feb. 13, 1987, as amended at 52 FR 21237, June 4, 1987; 53 FR 25314, July 6, 1988; 54 FR 18091, Apr. 27, 1989; 58 FR 11507, Feb. 26, 1993; 59 FR 11503, Mar. 11, 1994; 63 FR 63974, Nov. 18, 1998; 64 FR 67999, Dec. 6, 1999; 64 FR 70178, Dec. 16, 1999]

EFFECTIVE DATE NOTE: At 65 FR 83286, Dec. 29, 2000, § 246.14 was amended by revising paragraph (b)(2) and in paragraph (e)(3)(i), by removing the reference to “§ 246.12(r)(5)(iii)” and adding a reference to “§ 246.12(k)(3)” in its place, effective February 27, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 246.14 Program costs.

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(b) * * *

(2) For costs to be allowable, the State agency must ensure that food costs do not exceed the customary sales price charged by the vendor, home food delivery contractor, or supplier in a direct distribution food delivery system. In addition, food costs may not exceed the price limitations applicable to the vendor.