

## § 246.24

collection actions until restitution is made or a repayment schedule is agreed on, unless the State agency determines that further collection actions would not be cost-effective. The State agency must establish standards, based on a cost benefit analysis, for determining when collection actions are no longer cost-effective. At the time the State agency issues the demand letter, the State agency must advise the participant of the procedures to follow to obtain a fair hearing pursuant to §246.9 and that failure to pay the claim may result in disqualification. In addition to establishing a claim, the State agency must determine whether disqualification is required by §246.12(u)(2).

(ii) *Types of restitution.* In lieu of financial restitution, the State agency may allow participants or parents or caretakers of infant or child participants for whom financial restitution would cause undue hardship to provide restitution by performing in-kind services determined by the State agency. Restitution may not include offsetting the claim against future program benefits, even if agreed to by the participant or the parent or caretaker of an infant or child participant.

(iii) *Disposition of claims.* The State agency must document the disposition of all participant claims.

(2) *Claims against the State agency.* FNS will assert a claim against the State agency for losses resulting from program funds improperly spent as a result of dual participation, if FNS determines that the State agency has not complied with the requirements in §246.7(1)(1).

(3) *Delegation of claims responsibility.* The State agency may delegate to its local agencies the responsibility for collecting participant claims.

## § 246.24 Procurement and property management.

(a) *Requirements.* State and local agencies shall ensure that subgrantees comply with the requirements of 7 CFR part 3016, the nonprocurement debarment/suspension requirements of 7 CFR part 3017, and if applicable, the lobbying restrictions as required in 7 CFR part 3018 concerning the procurement and allowability of food in bulk lots, supplies, equipment and other services with Program funds. These requirements are adopted to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in A-130 and 7 CFR part 3016 do not relieve the State or

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local agency of the responsibilities arising under its contracts. The State agency 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, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in A-130 and 7 CFR part 3016.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in 7 CFR part 3016 in their utilization and disposition of real property and equipment, including automated data processing equipment, acquired in whole or in part with Program funds.

[50 FR 6121, Feb. 13, 1985, as amended at 59 FR 11508, Mar. 11, 1994]

## § 246.25 Records and reports.

(a) *Recordkeeping requirements.* Each State and local agency shall maintain full and complete records concerning Program operations. Such records shall comply with 7 CFR part 3016 and the following requirements:

(1) Records shall include, but not be limited to, information pertaining to financial operations, food delivery systems, food instrument issuance and redemption, equipment purchases and inventory, certification, nutrition education, civil rights and fair hearing procedures.

(2) All records shall be retained for a minimum of three years following the date of submission of the final expenditure report for the period to which the report pertains. If any litigation, claim, negotiation, audit or other action involving the records has been started before the end of the three-year period, the records shall be kept until all issues are resolved, or until the end