

**§ 248.21**

**7 CFR Ch. II (1-1-08 Edition)**

on demand by FNS, pay to FNS a sum equal to the amount of the money or the value of the FMNP coupons so lost.

(3) The State agency shall have full opportunity to submit evidence, explanation or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

(4) FNS is authorized to establish claims against a State agency for unreconciled FMNP coupons. When a State agency can demonstrate that all reasonable management efforts have been devoted to reconciliation and 99 percent or more of the FMNP coupons issued have been accounted for by the reconciliation process, FNS may determine that the reconciliation process has been completed to satisfaction.

(b) *Interest charge on claims against State agencies.* If an agreement cannot be reached with the State agency for payment of its debts or for offset of debts on its current Letter of Credit within 30 days from the date of the first demand letter from FNS, FNS will assess an interest (late) charge against the State agency. Interest accrual shall begin on the 31st day after the date of the first demand letter, bill or claim, and shall be computed monthly on any unpaid balance as long as the debt exists. From a source other than the FMNP, the State agency shall provide the funds necessary to maintain FMNP operations at the grant level authorized by FNS.

(c) *Penalties.* In accordance with section 12(g) of the National School Lunch Act, whoever embezzles, willfully misapplies, steals or obtains by fraud any funds, assets or property provided under section 17 of the Child Nutrition Act of 1966, as amended, whether received directly or indirectly from USDA, or whoever receives, conceals or retains such funds, assets or property for his or her own interest, knowing such funds, assets or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets or property are of the value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such funds, assets or property are of a value of less than \$100, shall be fined

not more than \$1,000 or imprisoned for not more than one year, or both.

**§ 248.21 Procurement and property management.**

(a) *Requirements.* State agencies shall comply with the requirements of 7 CFR part 3016 for procurement of supplies, equipment and other services with FMNP funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the FMNP in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in 7 CFR part 3016 do not relieve the State 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 FMNP. 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 agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with FMNP funds adhere to the standards set forth in 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 acquired in whole or in part with FMNP funds.

**§ 248.22 Nonprocurement debarment/suspension, drug-free workplace, and lobbying restrictions.**

The State agency shall ensure compliance with the requirements of the Department's regulations governing nonprocurement debarment/suspension (7 CFR part 3017), drug-free workplace (7 CFR part 3017), and the Department's regulations governing restrictions on