

UNITED STATES DEPARTMENT OF AGRICULTURE**ASSISTANCE LISTING 10.553 SCHOOL BREAKFAST PROGRAM (SBP)****ASSISTANCE LISTING 10.555 NATIONAL SCHOOL LUNCH PROGRAM (NSLP)****ASSISTANCE LISTING 10.556 SPECIAL MILK PROGRAM FOR CHILDREN
(SMP)****ASSISTANCE LISTING 10.559 SUMMER FOOD SERVICE PROGRAM FOR
CHILDREN (SFSP)****ASSISTANCE LISTING 10.579 CHILD NUTRITION DISCRETIONARY GRANTS
LIMITED AVAILABILITY****I. PROGRAM OBJECTIVES**

The objectives of the child nutrition cluster programs are to (1) assist states in administering food services that provide healthful, nutritious meals to eligible children in public and nonprofit private schools, residential child care institutions, and summer programs; (2) foster healthy eating habits in children by providing fresh fruits and fresh vegetables to children attending elementary schools; and (3) encourage the domestic consumption of nutritious agricultural commodities.

II. PROGRAM PROCEDURES**A. Overview**

The Child Nutrition programs are administered at the federal level by the Food and Nutrition Service (FNS) of the US Department of Agriculture (USDA) through grants to state agencies. Each state agency enters into agreements with subrecipient organizations for local level program operation and the delivery of program benefits and services to eligible children. The types of organizations that receive subgrants under each program are described below under “Program Descriptions.”

USDA makes donated agricultural commodities available for use in the operation of all child nutrition programs (except the special milk program for children (SMP) and fresh fruit and vegetables program (FFVP)). FNS enters into agreements with state distributing agencies for the distribution of USDA donated foods. The state distributing agencies enter into agreements with local program operators, which are defined collectively as “recipient agencies.” A state may designate a recipient agency to perform its storage and distribution duties. A state distributing agency may engage a commercial food processor to use USDA-donated foods in the manufacture of food products, and then deliver such manufactured products to recipient agencies.

B. Subprograms/Program Elements

1. Common Characteristics

The programs in the Child Nutrition Cluster are all variants of a basic program design having the following characteristics:

- a. Local program operators provide prepared meals to children in structured settings. Four types of meal service may be authorized: breakfast, lunch, snacks, and supper. Milk-only service may be authorized under the SMP. The types a particular program operator may offer are determined first by the respective program's authorizing statute and regulations, and second by the program operator's agreement with its administering agency.
- b. While all children in attendance are entitled to receive these program benefits, children whose households meet stated income eligibility criteria generally receive their meals (or milk, where applicable) free or at a reduced price. With certain exceptions, children not eligible for free or reduced price meals or free milk must pay the full prices set by the program operator for these items. A program meal must be priced as a unit.

The nonprofit school food service account is managed by local program operators who offer program and nonprogram foods to children during meal services. Nonprogram foods include any non-reimbursable foods and beverages purchased using the funds from the nonprofit school food service account. Nonprogram foods encompasses all other foods sold in school, including adult meals, foods sold outside of school hours, or any foods used for catering or vending activities. For the majority of local program operators, a la carte foods offered during meal service account for the largest share of nonprogram foods.

- c. Federal assistance to local program operators takes the form of cash reimbursement. In addition, USDA donates food under 7 CFR Part 250 for use in preparing meals to be served under the NSLP, SBP, and SFSP.
- d. To obtain cash and donated food assistance, a local program operator must submit monthly claims for reimbursement to its administering agency. All meals (and half-pints of milk under SMP) claimed for reimbursement must meet federal requirements and be served to eligible children.
- e. The program operator's entitlement to reimbursement payments is generally computed by multiplying the number of meals (and/or half-pints of milk under the SMP) served by a prescribed per-unit payment rate (called a "reimbursement rate"). Different reimbursement rates are prescribed for different categories and types of service. "Type" refers to the kind of service (breakfast, lunch, milk, etc.), while "category" refers to the beneficiary's eligibility (free, reduced price, or paid). Under this

formula, a local program operator's entitlement to funding from its administering agency is generally a function of the categories and types of service provided. Therefore, the child nutrition cluster programs are said to be "performance funded."

2. *Characteristics of Individual Programs*

The program-specific variants of this basic program model are outlined below.

- a. *National School Lunch Program (NSLP) and School Breakfast Program (SBP)* – These programs target children enrolled in schools. For program purposes, a "school" is a public or nonprofit private school of high school grade or under, or a public or licensed nonprofit private residential child care institution. At the local level, a school food authority (SFA) is the entity with which the administering agency makes an agreement for the operation of the programs. An SFA is the governing body (such as a school board) legally responsible for the operation of the NSLP and/or SBP in one or more schools. A school operated by an SFA may be approved to serve breakfast and lunch. A school participating in the NSLP that also has an afterschool care program with an educational or enrichment component may also be approved to serve afterschool snacks. Refer also to the description of the SMP below.
- b. *SFSP* – The SFSP is directed toward children in low-income areas when school is not in session. It is locally operated by approved sponsors, which may include public or private nonprofit SFAs, public or private nonprofit residential summer camps, or units of local, municipal, county, or state governments, or other private nonprofit organizations that develop a special summer or other school vacation program providing food service similar to that available to children during the school year under the NSLP and SBP.

Residential camps and migrant sites may receive reimbursement for up to three meals, or two meals and one snack, per child per day, whereas all other sites may receive reimbursement for any combination of two meals (except lunch and supper) or one meal and one snack per child per day.

All participating children receive their meals free. Participating summer camps must identify children eligible for free or reduced price meals and may receive SFSP meal reimbursement only for meals served to eligible children.

Although USDA-donated foods are made available under the SFSP, they are restricted to sponsors that prepare the meals to be served at their sites and those that have entered into an agreement with an SFA for the preparation of meals.

- c. *SMP* – The SMP provides milk to children in schools and child care institutions that do not participate in other federal meal service programs. However, schools operating the NSLP and/or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs where children do not have access to the NSLP and SBP. An SFA or institution operating the SMP as a pricing program may elect to serve free milk but there is no federal requirement that it do so. The SMP has no reduced price benefits.

C. Program Funding

FNS provides funds to state agencies by letter of credit. The state agencies use meal reimbursement funds to support program operations by SFAs, institutions, and sponsors under their oversight, and administrative funds to fund their own administrative costs.

1. *Funding Program Benefits*

FNS provides cash reimbursement to each state agency for each meal served under the NSLP, SBP, and SFSP and for each half pint of milk served under the SMP. The state agency's entitlement to cash assistance for NSLP and SBP meals, NSLP snacks, and SMP milk not reimbursed at the "free" rate is determined by multiplying the number of units served within the state by a "national average payment rate" set by FNS. Cash reimbursement to a state agency under the SFSP is the product obtained by multiplying the number of meals served by maximum rates of reimbursement established by FNS.

The basic rate is increased by two cents for each lunch served in SFAs in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price. A "severe need" school receives a higher rate and is one in which at least 40 percent of the school lunches served in the second preceding school year were served free or at reduced price. Milk served free under the SMP is funded at the average cost of milk. In addition, performance-based cash reimbursement is currently \$0.07 cents per lunch for eligible schools.

State agencies earn donated food assistance based on the number of program meals served in schools participating in the NSLP and for certain sponsors participating in the SFSP. The state agency's level of donated food assistance is the product of the number of meals served in the preceding year multiplied by the national average payment for donated foods.

FNS adjusts the national average payment rates and maximum rates for reimbursement annually for NSLP, SBP, and SFSP to reflect changes in the Consumer Price Index and for the SMP to reflect changes in the Producer Price Index. FNS adjusts donated food assistance rates annually to reflect changes in the Price Index for Food Used in Schools and Institutions. The current announcements of all these assistance rates is available at

<http://www.fns.usda.gov/school-meals/rates-reimbursement> (7 CFR sections 210.4(b), 220.4(b), 215.1) and at <https://www.fns.usda.gov/sfsp-reimbursement-rates> (7 CFR 225.9(d)(9)).

A state agency uses the cash assistance obtained through performance funding to reimburse participating SFAs and sponsors for eligible meals served to eligible persons. Like “national average payments” to states, reimbursement payments are also made on a per-meal (performance funding) basis. SFAs and SFSP sponsors receive donated foods to the extent they can use them for program purposes; however, certain types of products are limited by an entitlement.

A state agency’s FFVP grant is determined by FNS using an allocation formula per the NSLA Section 19.

2. *Funding State-Level Administrative Costs*

In addition to funding for reimbursement payments to SFAs and sponsors, state agencies receive funding from several sources for costs they incur to administer these programs.

- a. *State Administrative Expense (SAE) Funds* – These funds are granted under Assistance Listing 10.560, which is not included in the Child Nutrition Cluster.
- b. *SFSP State Administrative (SAF) Funds* – In addition to regular SAE grants, administrative funds are made available to state agencies under Assistance Listing 10.559 to assist with administrative costs of the SFSP (7 CFR section 225.5). The state agency must describe its intended use of the funds in a Program Management and Administrative Plan submitted to FNS for approval (7 CFR section 225.4).

Source of Governing Requirements

The programs included in this cluster are authorized by the Richard B. Russell National School Lunch Act, as amended (NSLA) (42 USC 1751 et seq.) and the Child Nutrition Act of 1966, as amended (CNA) (42 USC 1771 et seq.). The implementing regulations for each program are codified in parts of 7 CFR as indicated: National School Lunch Program (NSLP), Part 210; SBP, Part 220; Special Milk Program for Children (SMP), Part 215; and Summer Food Service Program for Children (SFSP), Part 225. Regulations have been proposed but not yet been codified for the FFVP at 7 CFR Part 211; implementation via FNS policy memos and guidance manual. Regulations at 7 CFR Part 245 address eligibility determinations for free and reduced price meals and free milk in schools and institutions. Regulations at 7 CFR Part 250 give general rules for the receipt, custody, and use of USDA donated foods provided for use in the Child Nutrition Cluster of programs.

Availability of Other Program Information

Other program information is available online at USDA’s public website. The Child Nutrition programs site pages are at <http://www.fns.usda.gov/cnd>. The USDA Foods site pages for the Child Nutrition programs are at <https://www.fns.usda.gov/usda-foods>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	Y	N	N	N	Y	Y	N	N	Y

A. Activities Allowed or Unallowed

Reimbursement for meals served is not based on costs; it is determined solely by applying the applicable meals times rates formula. For the SFSP, separate rates are used to calculate reimbursement for operating and administrative costs, however a sponsor can use its entire reimbursement payment for any combination of allowable operating and administrative costs. For the FFVP, eligible elementary schools may only use the awarded subgrant funds for allowable costs of purchasing, preparing, and serving the fresh fruits and fresh vegetables during school day; these funds may not be used for the service of school meals.

E. Eligibility

1. Eligibility for Individuals

Any child enrolled in a participating school or summer camp, or attending a SFSP meal service site, who meets the applicable program's definition of "child," may receive meals under the applicable program. For the NSLP and SBP, children belonging to households meeting nationwide income eligibility requirements may receive meals at no charge or at reduced price. Children who have been determined ineligible for free or reduced price school meals pay the full price, set by the SFA, for their meals. Children participating in an SFSP meal service receive their meals at no charge (7 CFR sections 225.15(f), 245.1(a), and 245.3(c); definition of "subsidized lunch (paid lunch)" at 7 CFR section 210.2; and definitions of "camp," "closed enrolled site," "open site," and "restricted open site" at 7 CFR section 225.2).

a. *General Eligibility*

The specific groups of children eligible to receive meals under each program are identified in the respective program's regulations.

- (1) *School Nutrition Programs (NSLP and SBP)* – A "child" is defined as (a) a student of high school grade or under (as determined by the state educational agency) enrolled in an educational unit of high school grade or under, including students who are mentally or physically handicapped (as determined by the state) and who are participating in a school program established for the mentally or physically handicapped; (b) a person who has not reached his/her twenty-first birthday and is enrolled in a public or nonprofit private residential child care institution; or (c) for snacks served in afterschool care programs operated by an eligible school, a person who is 18 years of age or under, except that children who turn 19 during the school year remain eligible for the duration of the school year (42 USC 1766a(b); definition of "child" at 7 CFR sections 210.2 and 220.2).
- (2) *SFSP* – A "child" is defined as (a) any person 18 years of age and under; and (b) a person over 18 years of age, who has been determined by the state educational agency or a local public educational agency to be mentally or physically handicapped, and who participates in a public or nonprofit private school program established for the mentally or physically handicapped (Definition of "children" at 7 CFR section 225.2).
- (3) *SMP* – Schools operating this program use the same definition of "child" that is used in the NSLP and SBP, except for provision (3) under the definition of "child" at 7 CFR section 210.2 regarding

snacks served in afterschool care programs. Where the program operates in child care institutions, as defined in 7 CFR section 215.2, a “child” is any enrolled person who has not reached his/her nineteenth birthday (7 CFR section 215.2).

- (4) *FFVP* – only elementary-aged children attending eligible elementary schools as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 USC 7801) (42 USC 1769a(d)(1)(C)) that also operate the NSLP (42 USC 1769a(d)(1)(A)(i)) are eligible to participate.

b. *Eligibility for Free or Reduced Price Meals or Free Milk*

- (1) *General Rule: Annual Certification* – A child’s eligibility for free or reduced price meals under a Child Nutrition Cluster program may be established by the submission of an annual application or statement which furnishes such information as family income and family size. Local educational agencies (LEAs), institutions, and sponsors determine eligibility by comparing the data reported by the child’s household to published income eligibility guidelines. In addition to publishing income eligibility information in the *Federal Register*, FNS makes it available on the FNS website at <http://www.fns.usda.gov/school-meals/income-eligibility-guidelines>.
- (a) *School Nutrition Programs* – Children from households with incomes at or below 130 percent of the federal poverty level are eligible to receive meals or milk free under the School Nutrition programs. Children from households with incomes above 130 percent but at or below 185 percent of the federal poverty level are eligible to receive reduced price meals. Persons from households with incomes exceeding 185 percent of the poverty level pay the full price (7 CFR sections 245.2, 245.3, and 245.6; section 9(b)(1) of the NSLA (42 USC 1758 (b)(1)); sections 3(a)(6) and 4(e) of the CNA (42 USC 1772(a)(6) and 1773(e))).
- (b) *SFSP* – While all SFSP meals are served at no charge, the sponsors of certain types of meal service sites must make individual determinations of eligibility for free or reduced price meals in accordance with 7 CFR section 225.15(f). See III.E.3, “Eligibility - Eligibility for Subrecipients,” for more information.
- (c) *SMP* – Eligibility for free milk in SFAs electing to serve free milk is limited to children of households meeting the income eligibility criteria for free meals under the School

Nutrition Programs. The SMP has no provision for reduced price benefits (definition of “free milk” at 7 CFR section 215.2, and 7 CFR sections 215.7(b), 245.3, and 245.6).

- (2) *Direct Certification* – Annual eligibility determinations may also be based on the child’s household receiving benefits under the Supplemental Nutrition Assistance Program (SNAP), Food Distribution Program on Indian Reservations (FDPIR), the Head Start Program (Assistance Listing 93.600) (42 USC 1758(b)(6)(A)), or, under most circumstances, the Temporary Assistance for Needy Families (TANF) program (Assistance Listing 93.558) (42 USC 1758(b)). A household may furnish documentation of its participation in one of these programs; or the school, institution, or sponsor may obtain the information directly from the state or local agency that administers these programs. Certain foster, runaway, homeless, and migrant children are categorically eligible for free school lunches and breakfasts (42 USC 1758(b)(5); 7 CFR section 245.6(b)).
- (3) *Direct Certification for Children Receiving Medicaid Benefits* – Section 103 of the Healthy, Hunger-Free Kids Act (HHFKA) provided for a series of demonstration projects on conducting direct certification for students in households receiving Medicaid benefits. This method is used only to certify children eligible for free school lunches and breakfasts in the seven states that are currently conducting demonstration projects. The states of California, Florida, Illinois, Kentucky, Massachusetts, New York, and Pennsylvania are authorized to conduct statewide direct certification with Medicaid data throughout all LEAs. In California, participation is limited to selected school districts.

To be eligible for direct certification for free meals under the demonstration projects, a child must meet both of the following criteria:

- (a) The child receives, or lives in the household (as defined in 7 CFR section 245.2) with a child who receives, medical assistance under the Medicaid program, and
- (b) The child is a member of a family with an income, as measured by the Medicaid program, before the application of any expense, block, or other income disregard imposed by state Medicaid policies, that does not exceed 133 percent of the federal poverty guidelines for the family size used in the Medicaid eligibility determination. Department of Health and Human Services Poverty Guidelines are available at <https://aspe.hhs.gov/poverty-research>.

Households with eligible children directly certified for free meals under the demonstration projects are not required to submit applications for school meal benefits and are not subject to the verification requirements at 7 CFR section 245.6a (42 USC 1758(b)(15)).

- (4) *Exceptions* – The following are exceptions to the requirement for annual determinations of eligibility for free or reduced price meals and free milk under the Child Nutrition Cluster programs.
- (a) *Puerto Rico and the Virgin Islands* – These two state agencies have the option to provide free meals and milk to all children participating in the School Nutrition programs, regardless of each child’s economic circumstances. Instead of counting meals and milk by type, they may determine the percentage that each type comprises of the total count using statistical surveys. The survey design must be approved by FNS (7 CFR section 245.4).
- (b) *Special Assistance Certification and Reimbursement Alternatives* – Special Assistance Certification and Reimbursement Alternatives, provisions 1, 2, 3, and the Community Eligibility Provision (CEP) are authorized by Section 11(a)(1) of the NSLA (42 USC 1759a(a)(1)) and Section 104 of HRFKA. Provision 1 may be used in schools where at least 80 percent of the children enrolled are eligible for free or reduced price meals. Under Provision 1, eligibility determinations for children eligible for free meals under the School Nutrition Programs must be made once every two consecutive school years. Children who qualify for reduced price meals are certified annually (42 USC 1759a(a)(1)(B) and (F); 7 CFR section 245.9(a)).
- For provisions 2, 3, and the CEP, extended cycles are allowed for eligibility determinations.
- (c) *SFSP Open Sites and Restricted Open Sites* – Determinations of individual household eligibility are not required for meals served free at SFSP “open sites” or at restricted open sites. Refer to III.G.3, “Eligibility for Subrecipients” for information on area eligibility.

c. *Reduced Price Charges for Program Meals*

The SFA sets meal prices. However, the price for a reduced price lunch or breakfast may not exceed \$0.40 and \$0.30, respectively (see the definition of a “reduced price meal” in 7 CFR section 245.2).

2. Eligibility for Group of Individuals or Area of Service Delivery

Refer to 3. “Eligibility for Subrecipients” (1) and (2) below for information on area eligibility for open and restricted open sites participating in the SFSP.

3. Eligibility for Subrecipients

Administering agencies may disburse program funds only to those organizations that meet eligibility requirements. Under the NSLP, SBP, FFVP, and SMP, this means the definition of “school food authority” (SFA) as described at 7 CFR sections 210.2, 215.2, and 220.2, respectively. Eligible SFSP organizations are described at 7 CFR section 225.2 under the definition of “sponsor.” Additional organizational eligibility requirements apply to the SFSP, NSLP Afterschool Snacks, and the SBP at the school or site level (see detail below).

- a. *SFSP* – Federal regulations at 7 CFR section 225.2 define sites in four ways:
 - (1) *Open Sites* – At an open site, meals are made available to all children in the area where the site is located. This area must be one in which poor economic conditions exist (one in which at least 50 percent of the children are from households that would be eligible for free or reduced price school meals under the NSLP and the SBP). Data to support a site’s eligibility may include (a) free and reduced price eligibility data maintained by schools that serve the same area; (b) census data; or (c) other statistical data, such as information provided by departments of welfare and zoning commissions.
 - (2) *Restricted Open Sites* – A restricted open site is one that was initially open to broad community participation, but at which the sponsor has restricted attendance for reasons of safety, security, or control. A restricted open site must serve an area in which poor economic conditions exist, and its eligibility may be documented with the same kinds of data listed above for open sites.
 - (3) *Closed Enrolled Sites* – A closed enrolled site makes meals available only to enrolled children, as opposed to the community at large. Its eligibility is based not on serving an area where poor economic conditions exist, but on the eligibility of enrolled children for free or reduced price school meals. At least 50 percent of enrolled children must be eligible for free or reduced price school meals. The sponsor must determine their eligibility through the application process described at 7 CFR section 225.15(f).
 - (4) *Camps* – Eligible camps include residential summer camps and nonresidential day camps that offer regularly scheduled food service as part of organized programs for enrolled children. A

camp need not serve an area when poor economic conditions exist. Instead, the camp's sponsor must determine each enrolled child's eligibility for free SFSP meals through the application requirements at 7 CFR sections 225.15(e) and (f). Unlike other sponsors, the sponsor of a camp receives reimbursement only for meals served to children eligible for free or reduced price school meals (7 CFR section 225.14(d)(1)).

- b. *SBP – Severe Need Schools* – In addition to the national average payment, FNS makes additional payments for breakfasts served to children qualifying for free or reduced price meals at schools that are in severe need. The administering agency must determine whether a school is eligible for severe need reimbursement based on the following eligibility criteria: (1) the school is participating in or desiring to initiate a breakfast program, and (2) 40 percent or more of the lunches served to students at the school in the second preceding school year under the NSLP were served free or at a reduced price. Administering agencies must maintain on file, and have available for reviews and audits, the source of the data to be used in making individual severe need determinations (42 USC 1773(d); 7 CFR section 220.9(d)).
- c. *NSLP – Afterschool Snacks* – Reimbursement for afterschool snacks is made available to those school districts that (1) operate the NSLP in one or more of their schools and (2) sponsor or operate afterschool care programs with an educational or enrichment purpose. In the case of snacks served at an eligible site located in the attendance area of a school in which at least 50 percent of the enrolled children are certified eligible for free and reduced price school meals, all snacks are served free and are reimbursed at the free rate regardless of individual eligibility. Schools and sites not located in such an area may also participate, but they must count and claim snacks as free, reduced price and paid, depending on the eligibility status of the children served, and they must maintain documentation of eligibility for children receiving free or reduced price snacks (42 USC 1766a).
- d. *FFVP* – Funding is awarded as a subgrant from the state agency only to eligible elementary schools as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 USC 7801) (42 USC 1769a(d)(1)(C)) that also operate the NSLP (42 USC 1769a(d)(1)(A)(i)) and are eligible to participate.

I. Procurement and Suspension and Debarment

1. Procurement

- a. A prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, requests for

proposals, contract term and conditions, or other documents for use by a state under this program shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide states with specification information related to a state procurement and still compete for the procurement if the state, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement (2 CFR section 416.1(a)).

- b. Procurements by states under this program shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographic preferences except as provided for in 2 CFR section 200.319(b) (2 CFR section 416.1(b)).
- c. Notwithstanding the requirements noted in paragraph 1.b above, an SFA, institution, or sponsor operating one or more Child Nutrition Cluster programs may use a geographical preference for the procurement of unprocessed agricultural products, both locally grown and locally raised (7 CFR sections 210.21(g), 215.14a(e), 220.16(f), and 225.17(e)).

2. *Before Award*

Before awarding a contract to a food service management company, or amending such a contract, an SFA operating the NSLP and SBP and sponsors operating the SFSP must: (1) obtain its administering agency's review and approval of the contract terms; (2) incorporate all changes required by the administering agency; (3) obtain written administering agency approval of any changes made by the SFA or sponsor or its food service management company to a pre-approved prototype contract; and (4) when requested, submit procurement documents for administering agency inspection (7 CFR sections 210.16(a)(10), 210.19(a)(5), 220.7(d)(1)(ix), and 225.15(m)(4)).

3. *Cost-Reimbursable Contracts*

- a. Cost-reimbursable contracts awarded by SFAs operating the NSLP, SMP, and SBP, including contracts with cost-reimbursable provisions and solicitation documents prepared to obtain offers of such contracts, must include the following provisions:
 - (1) Allowable costs will be paid from the nonprofit school food service account to the contractor net of all discounts, rebates, and other applicable credits accruing to or received by the contractor or any assignee under the contract, to the extent those credits are allocable to the allowable portion of the costs billed to the SFA.

- (2) Billing documents submitted by the contractor will either separately identify allowable and unallowable portions of each cost or include only allowable costs and a certification that payment is sought only for such costs.
 - (3) The contractor's determination of its allowable costs must be made in compliance with applicable departmental and program regulations and the OMB cost principles.
 - (4) The contractor must identify the amount of each discount, rebate, and other applicable credit on bills and invoices presented to the SFA for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit. If approved by the state agency, the SFA may permit the contractor to report this information on a less frequent basis than monthly, but no less frequently than annually.
 - (5) The contractor must identify the method by which it will report discounts, rebates, and other applicable credits allocable to the contract that are not reported prior to conclusion of the contract.
 - (6) The contractor must maintain documentation of costs and discounts, rebates, and other applicable credits, and must furnish such documentation upon request to the SFA, the state agency, or the USDA (7 CFR section 210.21(f)).
- b. No cost resulting from a cost-reimbursable contract may be paid from the SFA's nonprofit school food service account if (a) the underlying contract does not include the provision in paragraph (1)(a) above; or (b) such disbursement would result in the contractor receiving payments in excess of the contractor's actual, net allowable costs (7 CFR sections 210.21(f)(2), 215.14a(d)(2), and 220.16(e)(2)).

4. *Suspension and Debarment*

Mandatory awards by pass-through entities to subrecipients are excluded from the suspension and debarment rules (2 CFR section 417.215(a)(1)).

N. **Special Tests and Provisions**

1. **Verification of Free and Reduced Price Applications (NSLP)**

Compliance Requirements By November 15th of each school year, the LEA (or state in certain cases) must verify the current free and reduced price eligibility of households selected from a sample of applications that it has approved for free and reduced price meals, unless the LEA is otherwise exempt from the verification requirement. The verification sample size is based on the total number of approved applications on file on October 1st.

A state agency may, with FNS approval, assume from LEAs under its jurisdiction the responsibility for performing the verifications. If the LEA performs the verification function it must be in accordance with instructions provided by the state agency. The LEA must follow up on children whose eligibility status has changed as the result of verification activities to put them in the correct category.

LEAs (or state agencies) must select the sample by one of the following methods:

- a. **Standard Sample Size.** The lesser of 3 percent or 3000 of the approved applications on file as of October 1, selected from error-prone applications. For this purpose, error-prone applications are those showing household incomes within \$100 monthly or \$1,200 annually of the income eligibility guidelines for free and reduced price meals.
- b. **Alternative Sample Sizes**
 - (1) The lesser of 3 percent or 3,000 applications selected at random from approved applications on file as of October 1 of the school year, or
 - (2) The sum of (a) the lesser of 1 percent of all applications identified as error-prone or 1,000 error-prone applications, and (b) the lesser of 1/2 of 1 percent of, or 500, approved applications in which the household provided, in lieu of income information, a case number showing participation in the SNAP, TANF, or FDPIR.
 - (3) The use of alternative sample sizes is available only as follows:
 - (a) Any LEA may qualify if its nonresponse rate for the preceding school year's verification was less than 20 percent, or
 - (b) An LEA with more than 20,000 children approved by application for free and reduced price meals may qualify if its nonresponse rate for the preceding year had improved over the rate for the second preceding year by at least 10 percent.

“Nonresponse rate” is defined as the percentage of approved household applications selected for verification for which the LEA has not obtained verification information (7 CFR section 245.6a(a)).

Sources of information for verification include written evidence, collateral contacts, and systems of records, as described in 7 CFR section 245.6a(b) (42 USC 1758(b)(3)(D) and (H)).

Some LEAs are required to conduct a second review of initial eligibility determinations for free and reduced price school meals and to submit the results of the reviews, including the number of reviewed applications for which the eligibility determinations changed and the type of change made. State agencies are required to submit a report to FNS using the

FNS-874, the LEA Second Review of Applications Report (OMB No. 0584-0594). Affected LEAs are those that demonstrated high levels of, or a high risk for, administrative error associated with certification, verification, and other administrative processes (7 CFR section 245.11).

Audit Objectives Determine whether the LEA (or state) selected and verified the required sample of approved free and reduced price applications and made the appropriate changes to eligibility status and, if applicable, properly conducted the second review of applications.

Suggested Audit Procedures

- a. Obtain the current family size and income guidelines published by FNS.
- b. Through examination of documentation, ascertain that:
 - (1) The sampling and verification of free and reduced price applications were performed, as required, including, if applicable, the second reviews of applications.
 - (2) Changes were made to eligibility status based on documentation and other information obtained through the verification process.

2. Accountability for USDA-Donated Foods

The following compliance requirements do not apply to recipient agencies (as defined at 7 CFR section 250.3), including SFAs and SFSP sponsors. Auditors making audits of recipient agencies are not required to test compliance with these requirements.

Compliance Requirements

- a. Maintenance of Records

Distributing and subdistributing agencies (as defined at 7 CFR section 250.3) must maintain accurate and complete records with respect to the receipt, distribution, and inventory of USDA-donated foods, including end products processed from donated foods. Failure to maintain records required by 7 CFR section 250.16 shall be considered prima facie evidence of improper distribution or loss of donated foods, and the agency, processor, or entity may be required to pay USDA the value of the food or replace it in kind (7 CFR sections 250.16(a)(6) and 250.15(c)).
- b. Physical Inventory

Distributing and subdistributing agencies shall take a physical inventory of all storage facilities. Such inventory shall be reconciled annually with the storage facility's inventory records and maintained on file by the agency that contracted with or maintained the storage facility. Corrective action shall be taken

immediately on all deficiencies and inventory discrepancies and the results of the corrective action forwarded to the distributing agency (7 CFR section 250.14(e)).

Audit Objectives Determine whether an appropriate accounting was maintained for USDA-donated foods, an annual physical inventory was taken, and the physical inventory was reconciled with inventory records.

Suggested Audit Procedures

- a. Determine storage facility, processing, and end use locations of all donated foods, including end products processed from donated foods. Determine the donated food records maintained by the entity and obtain a copy of procedures for conducting the required annual physical inventory. Obtain a copy of the annual physical inventory results.
- b. Perform analytical procedures and obtain explanation and documentation for unusual or unexpected results. Consider the following:
 - (1) Compare receipts, distribution, losses, and ending inventory of donated foods for the audit period to the previous period.
 - (2) Compare distribution by entity for the audit period to the previous period.
- c. Ascertain the validity of the required annual physical inventory. Consider performing the following steps, as appropriate:
 - (1) Observe the annual inventory process at selected locations and recount a sample of donated food items.
 - (2) If the annual inventory process is not observed, select a sample of significant donated foods on hand as of the physical inventory date and, using the donated food records, “roll forward” the balance on hand to the current balance observed.
 - (3) On a test basis, recompute physical inventory sheets and related summarizations.
 - (4) Ascertain that the annual physical inventory was reconciled to donated food records. Investigate any large adjustments between the physical inventory and the donated food records.
- d. On a sample basis, test the mathematical accuracy of the donated food records and related summarizations. From the donated food records, vouch a sample of receipts, distributions, and losses to supporting documentation. Ascertain that activity is properly recorded, including correct quantity, proper period and, if applicable, correct recipient agency.

3. School Food Service Accounts

Compliance Requirements An SFA is required to account for all revenues and expenditures of its nonprofit school food service in accordance with state requirements. An SFA must operate its food services on a nonprofit basis; all revenue generated by the school food service must be used to operate and improve its food services (7 CFR sections 210.14(a), 210.14(c), 210.19(a)(2), 215.7(d)(1), 220.2, and 220.7(e)(1)(i)).

Audit Objectives Determine whether a separate accounting is made of the school food service, federal reimbursement payments are promptly credited to the school food service account and transfers out of the school food service account are for the benefit of the school food service.

Suggested Audit Procedures

- a. Review the school food service accounting records and ascertain if a separate accounting is made for the school food service.
- b. Test federal reimbursement payments received monthly from the administering agency to ascertain if promptly credited to the food service account.
- c. Test transfers out of the school food service account and ascertain if the transfers were for the benefit of the school food service.

4. Paid Lunch Equity (NSLP)

Compliance Requirements Section 776 of the Consolidated Appropriations Act, 2018 (Pub. L. No. 115-141) (the Act), Congress provides that only SFAs that had a negative balance in the nonprofit school food service account as of January 31, 2018, shall be required to establish prices for paid lunches according to the Paid Lunch Equity (PLE) provisions in Section 12(p) of the Richard B. Russell National School Lunch Act, 42 USC 1760(p) and implemented in National School Lunch Program regulations at 7 CFR 210.14(e). Any SFA with a positive or zero balance in its nonprofit school food service account as of January 31, 2018, is exempt from PLE requirements found at 7 CFR 210.14(e) for school year (SY) 2018-19.

SFAs that had a negative balance are required to ensure that sufficient funds are provided to its nonprofit school food service accounts from lunches served to students not eligible for free or reduced price meals. An SFA currently charging less for a paid lunch than the difference between the federal reimbursement rate for such a lunch and that for a free lunch is required to comply. This difference is known as “equity.” There are two ways to meet this requirement: (a) by raising the prices charged for paid lunches; or (b) through contributions from other nonfederal sources.

The calculations performed by the SFA to determine whether its paid lunch price requires adjustment are as follows:

- a. Determine the weighted average price of paid lunches. This is determined based on the total number of paid lunches claimed for federal reimbursement for the month of October in the previous school year, at each different price charged by the SFA (7 CFR section 210.14(e)(1)(i)).
- b. Calculate the paid lunch equity requirement, which is the difference between the per meal federal reimbursement for paid and free lunches received by the SFA in the previous school year (7 CFR paragraph 210.14(e)(1)(ii)).
- c. If the paid lunch equity calculated in step b. is higher than the weighted average price the SFA had been charging, calculated in step a., the SFA must increase the average weighted price charged in the previous school year by the sum of 2 percent and the percentage change in the Consumer Price Index for All Urban Consumers. This is the minimum price the SFA should be currently charging for paid lunches (7 CFR paragraph 210.14(e)(3)).

Audit Objectives Determine whether an SFA has correctly calculated its average paid lunch pricing requirement; correctly applied the calculations to the average paid lunch price; implemented the newly calculated paid lunch price; and received the equity contributions from nonfederal sources.

Suggested Audit Procedures

- a. Verify the calculations performed by the SFA to determine whether its paid lunch price requires adjustment.
- b. Verify that the SFA adjusted its average weighted paid lunch price in accordance with the results of the foregoing calculations and is actually charging students the adjusted price.
- c. Ascertain if the SFA met the equity requirement by furnishing additional funds from nonfederal sources.
- d. If so, verify that the amount provided was sufficient to cover the difference between the amount calculated by the SFA and the amount actually charged for paid lunches.

IV. OTHER INFORMATION

1. FNS no longer requires recipient agencies to inventory USDA-donated food separately from purchased food. However, the value of donated foods used during a state or recipient agency's fiscal year is considered federal awards expended in accordance with 2 CFR section 200.40 definition of "federal financial assistance" and should be valued in accordance with 2 CFR section 200.502. Therefore, recipient agencies must determine the value of donated foods used. FNS recommends that recipient agencies use the value of donated foods delivered to them during the audit period for this purpose.

2. See Assistance Listing 10.000 for additional information regarding to waivers for this program due to COVID-19.