

§ 35.6665

40 CFR Ch. I (7-1-10 Edition)

- (i) Classification and value of remaining supplies;
- (ii) Description of all equipment purchased with CERCLA funds, including its current condition;
- (iii) Verification of the current use and continued need for the equipment by site, activity, and operable unit, as applicable;
- (iv) Notification of any property which has been stolen or vandalized; and
- (v) A request for disposition instructions for any equipment no longer needed on the project.

(2) *Reporting frequency.* The recipient must submit an inventory report to EPA at the following times:

- (i) Within 90 days after completing any CERCLA-funded project or any response activity at a site; and
- (ii) When the equipment is no longer needed for any CERCLA-funded project or any response activity at a site.

(b) *Federally owned property—(1) Content.* The recipient must include the following information for each federally owned item in the inventory report:

- (i) Description;
- (ii) Decal number;
- (iii) Current condition; and
- (iv) Request for disposition instructions.

(2) *Reporting frequency.* The recipient must submit an inventory report to the appropriate EPA property accountable officer at the following times:

- (i) Annually, due to EPA on the anniversary date of the award;
- (ii) When the property is no longer needed; and
- (iii) Within 90 days after the end of the project period.

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§ 35.6670 Financial reports.

(a) *General.* The recipient must comply with the requirements regarding financial reporting described in 40 CFR 31.41.

(b) *Financial Status Report—(1) Content.* (i) The Financial Status Report (SF-269) must include financial information by site, activity, and operable unit, as applicable.

(ii) A final Financial Status Report (FSR) must have no unliquidated obligations.

If any obligations remain unliquidated, the FSR is considered an interim report and the recipient must submit a final FSR to EPA after liquidating all obligations.

(2) *Reporting frequency.* The recipient must file a Financial Status Report as follows:

- (i) Annually due 90 days after the end of the Federal fiscal year or as specified in the Cooperative Agreement; or if quarterly or semiannual reports are required in accordance with 40 CFR 31.41(b)(3), due 30 days after the reporting period;
- (ii) Within 90 calendar days after completing each CERCLA-funded response activity at a site (submit the FSR only for each completed activity); and
- (iii) Within 90 calendar days after termination or closeout of the Cooperative Agreement.

**RECORDS REQUIREMENTS UNDER A
COOPERATIVE AGREEMENT**

§ 35.6700 Project records.

The lead agency for the response action must compile and maintain an administrative record consistent with section 113 of CERCLA, the National Contingency Plan, and relevant EPA policy and guidance. In addition, recipients of assistance (whether lead or support agency) are responsible for maintaining project files described as follows.

(a) *General.* The recipient must maintain project records by site, activity, and operable unit, as applicable.

(b) *Financial records.* The recipient must maintain records which support the following items:

- (1) Amount of funds received and expended; and
- (2) Direct and indirect project cost.

(c) *Property records.* The recipient must maintain records which support the following items:

- (1) Description of the property;
- (2) Manufacturer's serial number, model number, or other identification number;
- (3) Source of the property, including the assistance identification number;
- (4) Information regarding whether the title is vested in the recipient or EPA;

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- (5) Unit acquisition date and cost;
- (6) Percentage of EPA's interest;
- (7) Location, use and condition (by site, activity, and operable unit, as applicable) and the date this information was recorded; and
- (8) Ultimate disposition data, including the sales price or the method used to determine the price, or the method used to determine the value of EPA's interest for which the recipient compensates EPA in accordance with §§ 35.6340, 35.6345, and 35.6350.

(d) *Procurement records*—(1) *General*. The recipient must maintain records which support the following items, and must make them available to the public:

(i) The reasons for rejecting any or all bids; and

(ii) The justification for a procurement made on a noncompetitively negotiated basis.

(2) *Procurements in excess of the simplified acquisition threshold*. The recipient's records and files for procurements in excess of the simplified acquisition threshold must include the following information, in addition to the information required in paragraph (d)(1) of this section:

(i) The basis for contractor selection;

(ii) A written justification for selecting the procurement method;

(iii) A written justification for use of any specification which does not provide for maximum free and open competition;

(iv) A written justification for the choice of contract type; and

(v) The basis for award cost or price, including a copy of the cost or price analysis made in accordance with § 35.6585 and documentation of negotiations.

(e) *Other records*. The recipient must maintain records which support the following items:

(1) Time and attendance records and supporting documentation;

(2) Documentation of compliance with statutes and regulations that apply to the project; and

(3) The number of site-specific technical hours spent to complete each pre-remedial product.

§ 35.6705 Records retention.

(a) *Applicability*. This requirement applies to all financial and programmatic records, supporting documents, statistical records, and other records which are required to be maintained by the terms, program regulations, or the Cooperative Agreement, or are otherwise reasonably considered as pertinent to program regulations or the Cooperative Agreement.

(b) *Length of retention period*. The recipient must maintain all records for 10 years following submission of the final Financial Status Report unless otherwise directed by the EPA award official, and must obtain written approval from the EPA award official before destroying any records. If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later.

(c) *Substitution of an unalterable electronic format*. An unalterable electronic format, acceptable to EPA, may be substituted for the original records. The copying of any unalterable electronic format must be performed in accordance with the technical regulations concerning Federal Government records (36 CFR parts 1220 through 1234) and EPA records management requirements.

(d) *Starting date of retention period*. The recipient must comply with the requirements regarding the starting dates for records retention described in 40 CFR 31.42(c) (1) and (2).

§ 35.6710 Records access.

(a) *Recipient requirements*. The recipient must comply with the requirements regarding records access described in 40 CFR 31.42(e).

(b) *Availability of records*. The recipient must, with the exception of certain policy, deliberative, and enforcement documents which may be held confidential, ensure that all files are available to the public.

(c) *Contractor requirements*. The recipient must require its contractor to