meet program requirements, or that the alternative approach leads to a more efficient, economical, and effective administration of the programs for which federal financial participation is provided, benefiting both the State and Federal Governments.

(d) Review of waiver requests. The Secretary, or his or her designee, will review waiver requests to assure that all necessary information is provided, that all processes provide for effective economical and effective program operation, and that the conditions for waiver in this section are met.

(e) Agency’s response to a waiver request. When a waiver is approved by an agency, it becomes part of the State’s approved APD and is applicable to the approving agency. A waiver is subject to the APD suspension provisions in §95.611(c)(3). When a waiver is disapproved, the entire APD will be disapproved. The APD disapproval is a final administrative decision and is not subject to administrative appeal.

§ 95.633 Nondiscrimination requirements.

State agencies that acquire ADP equipment and services are subject to the nondiscrimination requirements in Parts 80, 84, and 90.

§ 95.635 Disallowance of Federal financial participation for automated systems that fail to comply substantially with requirements.

(a) Federal financial participation at the applicable matching rate is available for automated data processing system expenditures that meet the requirements specified under the approved APD including the approved cost allocation plan.

(b) All or part of any costs for system projects that have a major failure to comply with an APD approved under applicable regulations at §95.611, or for the Title IV–D program contained in Part 307, the applicable regulations for the Title IV–E and Title IV–B programs contained in Chapter 13, subchapter G, §1355.55, or the applicable regulations for the Title XIX program contained in 42 CFR Chapter 4 Subchapter C, Part 433, are subject to disallowance by the Department.

[75 FR 66340, Oct. 28, 2010]

Federal Financial Participation in Costs of ADP Acquisitions

§ 95.631 Cost identification for purpose of FFP claims.

The conditions of this subpart apply notwithstanding the existence of an approved cost allocation plan. State agencies shall assign and claim the costs incurred under an approved APD in accordance with the following criteria:

(a) Development costs. (1) Using its normal departmental accounting system, the State agency shall specifically identify what items of costs constitute development costs, assign these costs to specific project cost centers, and distribute these costs to funding sources based on the specific identification, assignment and distribution outlined in the approved APD; (2) the methods for distributing costs set forth in the APD should provide for assigning identifiable costs, to the extent practicable, directly to program/functional areas. The State agency shall amend the cost allocation plan required by Subpart E of this part to include the approved APD methodology for the identification, assignment and distribution of the development costs.

(b) Operational costs. Costs incurred for the operation of an ADP system shall be identified and assigned by the State agency to funding sources in accordance with the approved cost allocation plan required by Subpart E of this part.

(c) Service agreement costs. States that operate a central data processing facility shall use their approved central service cost allocation plan required by OMB Circular A–87 to identify and assign costs incurred under service agreements with the State agency. The State agency will then distribute these costs to funding sources in accordance with paragraphs (a) and (b) of this section.

[45 FR 10794, Feb. 19, 1980]
§ 95.641 Applicability of rules for charging equipment in Subpart G of this part.

ADP equipment, as well as other equipment acquired under public assistance programs, is subject to Subpart G of this part. Among other things, Subpart G provides that a State may charge only depreciation or use allowances for equipment with unit acquisition cost of over $25,000. However, for ADP equipment HHS will consider requests for waivers of that restriction. If the acquisition of the equipment is part of an APD that is subject to the prior approval requirements of Subpart F, the State may submit the request for a waiver as part of the APD.

Subpart G—Equipment Acquired Under Public Assistance Programs

Source: 47 FR 41576, Sept. 21, 1982, unless otherwise noted.

§ 95.701 Purpose and scope of subpart.

(a) This subpart prescribes requirements concerning the computation of claims for Federal financial participation in the cost of equipment under public assistance programs. This subpart also prescribes requirements for the management and disposition of equipment whose costs are claimed for Federal financial participation under these programs.

(b) This subpart applies to equipment purchased by State agencies (as defined in §95.703) and to equipment purchased under service agreements with other State agencies and under cost-type contracts.

§ 95.703 Definitions.

As used in this subpart:

Acquisition cost of an item of purchased equipment means the net invoice price of the equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the equipment usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty or protective intransit insurance shall be included in or excluded from the unit acquisition cost in accordance with the regular accounting practices of the organization purchasing the equipment. If the item is acquired by trading in another item and paying an additional amount, acquisition cost means the amount received for trade-in plus the additional outlay.

Equipment means an article of tangible personal property that has a useful life of more than two years and an acquisition cost of $500 or more. Any recipient may use its own definition of equipment, if its definition would at least include all items of equipment as defined here.


State means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands and Guam.

State Agency means the State agency administering a public assistance program(s). This term includes local government public assistance agencies which administer public assistance programs under a State supervised system and the State agencies which supervise the local agencies.

§ 95.705 Equipment costs—Federal financial participation.

(a) General rule. In computing claims for Federal financial participation, equipment having a unit acquisition cost of $25,000 or less may be claimed in the period acquired or depreciated, at the option of the State agency. Equipment having a unit acquisition cost of more than $25,000 shall be depreciated. For purposes of this section, the term depreciate also includes use allowances computed in accordance with the cost principles prescribed in part 92.

(b) Exceptions. (1) Equipment purchased under service agreements with other State agencies and under cost-type contracts shall be depreciated. However, equipment having a unit acquisition cost of $25,000 or less may be claimed in the period acquired if (a)