

§ 95.612

an exception basis if requested to do so in a record by the Department.

[51 FR 45326, Dec. 18, 1986, as amended at 55 FR 4377, Feb. 7, 1990; 56 FR 12356, Mar. 25, 1991; 59 FR 30708, June 15, 1994; 61 FR 39897, July 31, 1996; 75 FR 66338, Oct. 28, 2010; 80 FR 75843, Dec. 4, 2015]

§ 95.612 Disallowance of Federal Financial Participation (FFP).

If the Department finds that any ADP acquisition approved or modified under the provisions of § 95.611 fails to comply with the criteria, requirements, and other activities described in the approved APD to the detriment of the proper, efficient, economical and effective operation of the affected program, payment of FFP may be disallowed. In the case of a suspension of the approval of a Child Support APD for enhanced funding, *see* § 307.40(a). In the case of a suspension of the approval of an APD for a Comprehensive Child Welfare Information System (CCWIS) project and, if applicable the transitional project that preceded it, *see* § 1355.58 of this title.

[75 FR 66339, Oct. 28, 2010, as amended at 81 FR 35479, June 2, 2016]

§ 95.613 Procurement standards.

(a) *General.* Procurements of ADP equipment and services are subject to the procurement standards prescribed by part 75 regardless of any conditions for prior approval. The Department retains the authority to provide greater oversight including requiring a State to comply with § 75.328 if the Department determines that the State procurement process is an impediment to competition that could substantially impact project cost or risk of failure.

(b) Those standards, as well as the requirement for prior approval, apply to ADP services and equipment acquired by a State or local agency, and the ADP services and equipment acquired by a State or local Central Data Processing facility primarily to support the Social Security Act programs covered by this subpart. Service agreements are exempt from these procurement standards.

[51 FR 45326, Dec. 18, 1986, as amended at 75 FR 66339, Oct. 28, 2010; 81 FR 3020, Jan. 20, 2016]

45 CFR Subtitle A (10–1–22 Edition)

§ 95.615 Access to systems and records.

The State agency must allow the Department access to the system in all of its aspects, including pertinent state staff, design developments, operation, and cost records of contractors and subcontractors at such intervals as are deemed necessary by the Department to determine whether the conditions for approval are being met and to determine the efficiency, economy and effectiveness of the system.

[75 FR 66340, Oct. 28, 2010]

§ 95.617 Software and ownership rights.

(a) *General.* The State or local government must include a clause in all procurement instruments that provides that the State or local government will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under this subpart.

(b) *Federal license.* The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use and to authorize others to use for Federal Government purposes, such software, modifications, and documentation.

(c) *Proprietary software.* Proprietary operating/vendor software packages which are provided at established catalog or market prices and sold or leased to the general public shall not be subject to the ownership provisions in paragraphs (a) and (b) of this section. FFP is not available for proprietary applications software developed specifically for the public assistance programs covered under this subpart.

[51 FR 45326, Dec. 18, 1986, as amended at 75 FR 66340, Oct. 28, 2010]

§ 95.619 Use of ADP systems.

ADP systems designed, developed, or installed with FFP shall be used for a period of time specified in the advance planning document, unless the Department determines that a shorter period is justified.

§ 95.621 ADP reviews.

The Department will conduct periodic onsite surveys and reviews of State and local agency ADP methods