

(c) *Financial status report*—(1) *Form*. State agencies shall use the standard Financial Status Report (Form SF-269) to report program costs.

(2) *Frequency*. The report (Form SF-269) shall be required quarterly.

(3) *Exceptions*. Those State agencies that receive payments under the U.S. Treasury check system shall submit to FCS a Quarterly Report of Federal Cash Transactions (Form SF-272).

(4) *Due dates*. Quarterly reports shall be due April 30 (for the period January through March), July 30 (April through June), October 30 (July through September), January 30 (October through December). Final reports are due December 30 for all completed Federal fiscal years (October 1 through September 30) or 90 days after termination of Federal financial support. Requests from State agencies for extension of reporting due dates may be approved, if necessary.

§ 277.12 Retention and custody of records.

(a) *Retention period*. All financial records, supporting documents, statistical records, negotiated contracts, and all other records pertinent to program funds shall be maintained for three years from the date of submission of the annual financial status report of the relevant fiscal year to which they apply except that:

(1) If any litigation, claim, or audit is started before the expiration of the three-year period, the applicable records shall be retained until these have been resolved.

(2) In the case of a payment by a State agency to a subagency or contractor using program funds, the State agency, USDA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any book, documents, papers and records of the subagency or contractor which the State agency, USDA, or the Comptroller General of the United States or any of their duly authorized representatives, determine are pertinent to administration of the specific FCS program funds, for the purpose of making audit, examination, excerpts, and transcripts.

(b) *Restrictions on public access*. Unless required by laws, FCS will not place re-

strictions on State agencies which limit public access to their records or the records of their subagencies or contractors that are pertinent to the administrative funding provided by FCS except when the State agency can demonstrate that such records must be kept confidential and would have been excepted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to FCS.

§ 277.13 Property.

(a) *General*. This section prescribes policies and procedures governing title, use, disposition of real and personal property for which acquisition costs were borne, in whole or in part, as a direct charge to FCS funds, and ownership rights or intangible personal property developed, in whole or in part, with FCS funds. State agencies may follow their own property management policies and procedures provided they observe the requirements of this section. With respect to property covered by this section, FCS may not impose on State agencies any requirement (including property reporting requirements) not authorized by this section unless specifically required by Federal laws.

(b) *Nonexpendable personal property*—(1) *Title*. Title to nonexpendable personal property whose acquisition cost is borne, in whole or in part, by FCS shall vest in the State agency upon acquisition, and shall be subject to the restrictions on use and dispositions set forth in this section.

(2) *Use*. (i) The State agency shall use the property in the program as long as there is a need for such property to accomplish the purpose of the program.

(ii) When there is no longer a need for the property to accomplish the purpose of the program, the State agency shall use the property where needed in administration of other programs in the following order of priority:

(A) Other federally-funded programs of FCS.

(B) Other federally-funded programs of USDA.

(C) Other federally-funded programs.

(iii) When the State agency no longer has need for such property in any of its

federally financed activities, the property may be used for the State agency's own official activities in accordance with the following standards:

(A) If the property had a total acquisition cost of less than \$1,000, the State agency may use the property without reimbursement to FCS.

(B) For all such property not covered under paragraph (b)(2)(iii)(A) of this section, the State agency may retain the property for its own use, provided a fair compensation is made to FCS for the FCS share of the property. The amount of compensation shall be computed by applying the percentage of FCS participation in the cost of the property to the current fair market value of the property.

(3) *Disposition.* If the State agency has no need for the property, disposition of the property shall be made as follows:

(i) If the property had a total acquisition cost of less than \$1,000 per unit, the State agency may sell the property and retain the proceeds.

(ii) If the property had an acquisition cost of \$1,000 or more per unit, the State agency shall:

(A) If instructed to ship the property elsewhere, the State agency shall be reimbursed with an amount which is computed by applying the percentage of the State agency's participation in the cost of the property to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(B) If instructed to otherwise dispose of the property, the State agency shall be reimbursed by FCS for the cost incurred in such disposition.

(C) If disposition or other instructions are not issued by FCS within 120 days of a request from the State agency, the State agency shall sell the property and reimburse FCS an amount which is computed by applying the percentage of FCS participation in the cost of the property to the sales proceeds. The State agency may, however, deduct and retain from FCS's share \$100 or 10 percent of the proceeds, whichever is greater, for the State agency selling and handling expenses.

(c) *Transfer of title to certain property.*

(1) Where FCS determines that an item of nonexpendable personal property

with an acquisition cost of \$1,000 or more which is to be wholly borne by FCS is unique, difficult, or costly to replace, FCS may reserve the right to require the State agency to transfer title of the property to the Federal Government or to a third party named by FCS.

(2) Such reservation shall be subject to the following:

(i) The right to require transfer of title may be reserved only by means of an expressed special condition under which funds were authorized for acquisition of the property, or, if approval for the acquisition of the property is given after the funds are awarded, by means of a written stipulation at the time such approval is given.

(ii) The property must be sufficiently described to enable the State agency to determine exactly what property is involved.

(3) FCS may not exercise the right to reserve until the State agency no longer needs the property in the activity for which it was acquired. Such need shall be assumed to end with termination of the activity in which the property was used unless the State agency continues to use the property in other program-related activities after the termination date and demonstrates to FCS a continued need for such use in the program.

(4) To exercise the right, FCS must issue disposition instructions to the State agency not later than 120 days after the State agency no longer needs the property in the activity for which it was acquired. If instructions are not issued within that time, FCS's right shall lapse, and the State agency shall act in accordance with the applicable standards in paragraphs (b)(2) and (b)(3) of this section.

(5) The State agency shall be entitled to reimbursement with an amount which is computed by applying the percentages of the State agency's participation in the acquisition cost of the property to the current fair market value of the property, and for any reasonable shipping and interim storage costs it incurs pursuant to FCS's disposition instructions.

(d) *Property management standards.* State agencies' property management standards for nonexpendable personal

property covered by this section shall include the following procedural requirements:

(1) Property records shall be maintained accurately and provide for:

- (i) A description of the property.
- (ii) Manufacturer's serial number or other identification number.
- (iii) Acquisition date and cost.
- (iv) Source of the property.
- (v) Percentage of FCS funds used in the acquisition of the property, or sufficient information to be able to compute the percentage, if and when the property is disposed of.
- (vi) Location, use and condition of the property.
- (vii) Ultimate disposition data including sales price or the method used to determine current fair market value if the State agency reimburses FCS for its share.
- (viii) Trade-in value of any property purchased with Federal funds where their trade-in value reduces the acquisition cost of new property.

(2) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(3) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of non-expendable personal property shall be investigated and properly documented.

(4) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(5) Proper sales procedures shall be implemented to keep the property in good condition.

(e) *Expendable personal property*—(1) *Title.* Title to expendable personal property, whose acquisition cost was borne in whole or in part by FCS, shall vest in the State agency.

(2) *Use.* The State agency shall use the property in the program as long as there is a need for such property to accomplish the purpose of the program.

(3) *Disposition.* When there is no longer a need for the property in the program and there is a residual inventory exceeding \$1,000 the State agency shall:

(i) Use the property in other federally sponsored projects or programs;

(ii) Retain the property for use on non-federally sponsored activities; or,

(iii) Sell it.

(4) *Compensation.* FCS must be compensated for its share if the alternative in paragraph (e)(3)(i) of this section is not followed. The amount of compensation shall be computed in the same manner as for nonexpendable personal property.

(f) *Patents and inventions.* If any program activity produced patents, patent rights, processes or inventions in the course of work aided by FCS, such fact shall be promptly and fully reported to FCS. Unless there is prior agreement between the State agency and FCS on disposition of such items, FCS shall determine whether protection on such invention or discovery shall be sought and how the rights in the invention or discovery—including rights under any patent issued thereon—shall be disposed of and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971), and State of Government Patent Policy as printed in title 37 CFR, chapters I and II.

(g) *Copyrights.* When a program activity results in a book or other copyrightable materials, the author or State agency is free to copyright the work, but FCS reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use and to authorize others to use the work for government purposes. This includes copyrights on ADP software as specified in appendix A.

§ 277.14 Procurement standards.

(a) *General.* This section establishes standards and guidelines for the procurement of supplies, equipment, construction and other services whose cost is borne in whole or in part by FCS program funds. These standards ensure that such materials are obtained in an effective and economical manner and in compliance with the provisions of applicable Federal law and Executive orders. No additional procurement standards will be imposed by FCS upon