

**§ 1599.12**

such property. However, the participant shall not use sale proceeds or income to pay for the acquisition, development, construction, alteration or upgrade of real property that is:

(1) Owned or managed by a church or other organization engaged exclusively in religious pursuits; or

(2) Used in whole or in part for sectarian purposes, except that a participant may use sale proceeds or income to pay for repairs to or rehabilitation of a structure located on such real property to the extent necessary to avoid spoilage or loss of donated commodities, but only if such structure is not used in whole or in part for any religious or sectarian purposes while the donated commodities are stored in it. If such use is not specifically provided for in the agreement, such use may only occur after receipt of written approval from FAS.

(g) A participant shall endeavor to comply with §§ 3019.41 through 3019.43 of this title when procuring goods and services and when engaging in construction work to implement the agreement. The participant shall also establish procedures to prevent fraud. As provided for in the agreement, the participant shall enter into a written contract with each provider of goods, services or construction work that requires the provider to maintain adequate records to account for all donated commodities or funds or both provided to the provider by the participant and to submit periodic reports to the participant. The participant shall submit a copy of the signed contracts to FAS.

**§ 1599.12 Subrecipients.**

(a) If provided for in the agreement, a participant may utilize the services of a subrecipient to implement activities under this agreement. The participant shall enter into a written subagreement with the subrecipient, and provide a copy of such subagreement to FAS, in the manner set forth in the agreement, prior to the transfer of any donated commodities, sale proceeds, income or FAS-provided funds to the subrecipient. Such written subagreement shall require the subrecipient to pay to the participant the value of any donated commodities, sale proceeds,

**7 CFR Ch. XV (1–1–10 Edition)**

income, or FAS-provided cash funds that are not used in accordance with the subagreement or are lost, damaged, or misused as a result of the subrecipient's failure to exercise reasonable care.

(b) If a participant demonstrates to FAS that it is not feasible to enter into a subagreement with a subrecipient, FAS may grant approval to proceed without a subagreement; provided, however, that the participant must obtain such approval from FAS prior to transferring any donated commodities, sale proceeds, income, or FAS-provided funds to the subrecipient.

(c) The participant shall monitor the actions of a subrecipient as necessary to ensure that donated commodities or funds provided to the subrecipient are used for authorized purposes in compliance with applicable laws and regulations and the agreement and that performance goals are achieved. The participant shall provide in the subagreement that the subrecipient must comply with applicable provisions of the regulations set forth in Chapter XXX of this title.

**§ 1599.13 Recordkeeping and reporting requirements.**

(a) A program participant shall retain records and permit access to records in accordance with the requirements of § 3019.53 of this title. The date of submission of the final expenditure report, as referenced in § 3019.53(b) of this title, shall be the final date of submission of the forms required by paragraphs (c)(1) and (2) of this section, as prescribed by FAS.

(b) A participant shall, within 30 days after export of all or a portion of the donated commodities, submit evidence of such export to FAS, in the manner set forth in the agreement. The evidence may be submitted through an electronic media approved by FAS or by providing the carrier's on board bill of lading. The evidence of export must show the kind and quantity of commodities exported, the date of export, and the country where commodities were delivered.

(c)(1) A participant shall submit to FAS information, using a form as prescribed by FAS, covering the receipt, handling and disposition of the donated