

**§ 95.631**

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.

[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/functions. The State agency shall amend the cost allocation plan required by subpart E of this part to include the approved APD methodology for the

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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.

**§ 95.633 Nondiscrimination requirements.**

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

[45 FR 10794, Feb. 19, 1980]

**§ 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 regulation 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.

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