

§ 95.623

(ii) It meets the definition of a service agreement as it was defined in section 95.605 from December 28, 1978 through January 19, 1987;

(iii) The claim conforms to the timely claim provisions of 45 CFR part 95, subpart A; and

(iv) The service agreement was not previously disapproved by HHS.

(f) *ADP System Security Requirements and Review Process*—(1) *ADP System Security Requirement*. State agencies are responsible for the security of all ADP projects under development, and operational systems involved in the administration of HHS programs. State agencies shall determine the appropriate ADP security requirements based on recognized industry standards or standards governing security of Federal ADP systems and information processing.

(2) *ADP Security Program*. State ADP Security requirements shall include the following components:

(i) Determination and implementation of appropriate security requirements as specified in paragraph (f)(1) of this section.

(ii) Establishment of a security plan and, as appropriate, policies and procedures to address the following area of ADP security:

(A) Physical security of ADP resources;

(B) Equipment security to protect equipment from theft and unauthorized use;

(C) Software and data security;

(D) Telecommunications security;

(E) Personnel security;

(F) Contingency plans to meet critical processing needs in the event of short or long-term interruption of service;

(G) Emergency preparedness; and,

(H) Designation of an Agency ADP Security Manager.

(iii) Periodic risk analyses. State agencies must establish and maintain a program for conducting periodic risk analyses to ensure that appropriate, cost effective safeguards are incorporated into new and existing systems. State agencies must perform risk analyses whenever significant system changes occur.

(3) *ADP System Security Reviews*. State agencies shall review the ADP system security of installations involved in

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the administration of HHS programs on a biennial basis. At a minimum, the reviews shall include an evaluation of physical and data security operating procedures, and personnel practices.

(4) Costs incurred in complying with provisions of paragraphs (f)(1)–(3) of this section are considered regular administrative costs which are funded at the regular match rate.

(5) The security requirements of this section apply to all ADP systems used by State and local governments to administer programs covered under 45 CFR part 95, subpart F.

(6) The State agency shall maintain reports of their biennial ADP system security reviews, together with pertinent supporting documentation, for HHS on-site review.

[43 FR 44853, Sept. 29, 1978, as amended at 51 FR 45329, Dec. 18, 1986; 53 FR 27, Jan. 4, 1988; 55 FR 4378, Feb. 7, 1990; 61 FR 39898, July 31, 1996]

§ 95.623 Waiver of prior approval requirements.

For ADP equipment and services acquired by a State without prior written approval, the Department may waive the prior approval requirement if prior to December 1, 1985:

(a) The State submitted to the Department all information required under § 95.611, satisfactorily responded to all concerns raised by the Department and received a final letter of approval from the Department; or,

(b) The State has a request pending with the Department for retroactive approval, which the Department received before December 1, 1985 and the Department determines that the request would have received prior approval had a timely request for such approval been made by the State agency.

[51 FR 3339, Jan. 27, 1986, as amended at 55 FR 4378, Feb. 7, 1990]

§ 95.624 Consideration for FFP in emergency situations.

For ADP equipment and services acquired by a State after December 1, 1985 to meet emergency situations, which preclude the State from following the requirements of § 95.611, the Department will consider providing FFP upon receipt of a written request