UNITED STATES DEPARTMENT OF AGRICULTURE
Food and Nutrition Service
3101 Park Center Drive
Alexandria, VA 22302

FNS INSTRUCTION 813-1

ACTION BY: Regional Directors
Supplemental Food Programs

SOURCE CITATION: Section 246.14

WIC Program--Allowable Costs - Real Property

I PURPOSE

This Instruction provides the Food and Nutrition Service (FNS) Regional Offices with specific guidance for assessing requests from State agencies to purchase, renovate or repair real property with WIC Program funds.

II DEFINITIONS

A Capital Expenditures are expenditures to acquire capital assets or materially increase the value or service life of existing capital assets. A capital asset is one with an acquisition cost at or above a prescribed "capitalization threshold," and whose use will yield a benefit to a State or local agency over two or more fiscal years. Examples include real property, equipment and intangible assets (patents, copyrights, etc.).

B Depreciation is when a State or local agency purchases an asset with its own funds, then recovers the portion that benefits WIC by charging an appropriate portion to WIC each fiscal year that the asset is used for program purposes. One calculates depreciation expense on the basis of the property's acquisition cost and service life. Depreciation expense can never be charged on the cost of land. No prior approval is required to charge depreciation expense to the WIC Program because the Federal Government assumes no financial risk when the State or local agency commits its own funds.

C Expensing is when a State or local agency charges the entire acquisition cost of a capital asset to WIC in the fiscal year of acquisition. Expensing requires prior approval because it entails asking FNS to pay the cost in advance of the WIC Program receiving any benefit from the property's use.

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

DISTRIBUTION:	MANUAL MAINTENANCE INSTRUCTIONS:	RESPONSIBLE FOR PREPARATION AND MAINTENANCE:	Page 1
5,9,15	New Instruction. Insert in Manual	SFPD-200	5-5-93

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D   Maintenance is the process of keeping capital assets, such as buildings and equipment, in a state of good repair. It includes preventive maintenance and upkeep, routine repairs and alterations, and other activities needed to maintain-the property in an efficient operating condition. Maintenance is a current operating expense rather than a capital expenditure, and accordingly does not require prior approval.

E   Real Property is land and whatever is erected on or affixed to the land (i.e., buildings). Real property is distinguished from personal property in that it cannot be removed at will.

F   Repairs are activities to restore capital assets to their former, serviceable condition by replacing parts, putting together broken components, etc. Repairs that materially increase the property's value or useful life are capital expenditures requiring prior approval; other, routine repairs are normal maintenance and do not require prior approval.

G   Renovations are rearrangements, alterations and restorations of real property to make it suitable for program use. Renovations to make building space suitable specifically for the WIC Program require prior approval.

H   Use Allowance is a substitute for depreciation, whereby the State or local agency charges a fixed amount, not to exceed two percent of acquisition cost, for the use of buildings in Federal programs. The Office of Management and Budget (OMB) allows this because many State and local governmental accounting systems do not capture depreciation expense.

III POLICY GENERAL

A   Background. State and local agencies are occasionally confronted with considerable obstacles in securing adequate facilities in which to operate the WIC Program. These obstacles often arise due to unforeseen circumstances such as accelerated demand for program services or natural disasters. In some cases, State agencies are unable to utilize existing or additional program funds because they have inadequate facilities in which to serve additional participants. In the interest of mitigating this problem, FNS wants to clarify its position on the use of WIC funds to pay for the purchase, renovation or repair of real property.

An expenditure to purchase or materially improve real property is a capital expenditure. Under 7 CFR 246.14(d) (2), prior approval is required to expense any capital expenditure of $2,500 or more under the WIC grant. This Instruction presents FNS policy on handling requests for prior approval to expense capital expenditures for acquiring or materially improving real property.

For the following reasons, depreciation/use allowance is the preferred method for State and local agencies to recover program costs associated with real property. Using scarce NSA funds to expense capital acquisitions and improvements diverts them from funding costs that more directly support the WIC Program's mission, such as salaries of staff engaged in providing supplemental foods, nutrition education and health care referrals. Expensing the cost of acquiring or improving real property requires FNS to assume the risk that the program may not receive the full value of its up-front investment. Therefore, regional offices shall grant prior approval for expensing such costs only in exceptional cases.

Exceptional cases are those in which the State agency can demonstrate that denying prior approval will impair accomplishment of the program's mission. For example, the non-availability of alternative means to acquire additional clinic space may cause additional clients to go unserved or underserved due to lack of infrastructure rather than to lack of funding. Such circumstances may warrant an exception to the general rule (depreciation/use allowance) because they may preclude the State agency using its NSA funds efficiently to serve the maximum possible caseload. Only in such cases can expensing acquisitions or improvements of real property satisfy the reasonable-and-necessary tests of OMB Circular A-87, Cost Principles for State and Local Governments.

B Adequate Facilities. The WIC Program requires facilities that provide a suitable environment in which interviews, counseling and referrals can be made with privacy and without interruption. A facility should be accessible and safe for mothers and young children. Proposals to purchase, renovate or repair facilities should only be approved for sites which provide an acceptable location in which to operate the WIC Program. FNS generally views the investment of Federal funds in infrastructure as a long-term commitment to the WIC Program.

Consequently, a clear indication of whether the facility is large enough to accommodate the eligible population in its designated service area is essential for the assessment of any major purchase, renovation or repair to be paid for, in whole or in part, with WIC Program funds. State and local agencies should be encouraged to contact the U.S. Department of Housing and Urban Development (HUD) regarding the availability of property and rental space in their areas.

C Cost Allocation. Costs for the purchase, renovation or repair of real property should be allocated among the various parties involved. Only costs directly associated with space to be utilized by the WIC Program should be paid for with WIC Program funds. Although FNS encourages an integrated health agency environment, the WIC Program cannot be expected to pay the costs of other programs. In cases where other programs are or will be collocated with the WIC Program, some methodology should be established to determine each program's fair share of the costs. In cases where some of the other programs involved cannot pay their fair share of the proposed costs, the State or local agency will be expected to pay for that share of the costs. In all cases, the lower the Federal share in real property the better.

IV POLICY PURCHASES

When State or local agencies use their own funds to purchase buildings, they may amortize the costs of these buildings to the Federal programs that use them. Basically, this is accomplished by charging a use allowance or depreciation to the Federal grants. This Instruction does not cover amortizing the costs of building purchases. This Instruction refers solely to expensing or charging the entire acquisition cost of a building to a WIC Program grant in the year in which the purchase was made.

The primary problem with purchasing a building with WIC Program funds is that the Federal Government maintains an interest in the building. This creates a burden on Federal and State personnel to track the Federal interest in properties over an extended period of time. In the event that the WIC Program vacates a building purchased, in whole or in part, with WIC Program funds, the State agency should contact FNS for disposition instructions in accordance with 7 CFR 3016.31. If a State agency decides to sell, or retain the title of, a building which was vacated by the WIC Program, it must compensate FNS for the Federal percentage share of the sale price minus any reasonable expenses, or the fair market value, of the building.

All requests for the purchase or construction of buildings must be submitted to FNS Regional Offices for approval. Regions should utilize the worksheet contained in Exhibit A of this Instruction as a guideline to conduct their assessment of State agency requests to purchase real property. Although the purchasing of real property is discouraged, regions should seriously consider such requests when no other viable option is available to a State agency. In situations where the approval of such requests would clearly further the primary mission of the WIC Program, State agencies should be allowed to purchase real property in order to provide the necessary infrastructure in which to adequately serve the eligible populations that would otherwise go unserved or underserved.

v POLICY - RENOVATIONS AND REPAIRS

A General. Due to the complexities outlined above, renovations and repairs are almost always preferred to outright purchases of buildings. As part of the approval process for renovations and repairs, State agencies should secure an agreement with the property owners, whether public or private, that ensures the WIC Program receives a fair return on its investment. Regions should utilize the worksheet contained in Exhibit B of this Instruction as a guideline to conduct their assessment of State agency requests to renovate or repair real property. In general, FNS views the use of WIC funds to renovate or repair real property as diverting funds from supporting the primary mission of the program. Nevertheless, in situations where the approval of such requests is clearly in the best interest of the WIC Program, State agencies should be allowed to renovate or repair real property in order to provide a suitable environment in which to operate the WIC Program.

B State/Local Government Property. In cases where the property is owned by a State or local government, the State agency should agree that in the event that the WIC Program vacates the facility that was renovated or repaired with WIC Program funds that it will pay, from non-Federal monies, the Federal Government the non-depreciated value of the renovation/repair paid for with WIC Program funds.

C Rental Property. Making capital improvements to rental property is the least desirable remedy for insufficient space. FNS regional offices shall grant prior approval for such projects only after the State or local agency has demonstrated that no reasonable alternative is available. In such cases, the State or local agency shall build appropriate safeguards into the transaction to protect its investment. A State or local agency shall not *engage* contractors in anticipation of prior approval for a renovation project in rented premises, until such safeguards have been installed. Examples of safeguards may include:

1 Amending the lease agreement to provide for extending the lease until the WIC Program has received full benefit from the renovation. Full benefit may be defined in terms of reasonable depreciation of the cost of the renovation.

2 Amending the lease agreement to provide for a refund to the local agency of a dollar amount representing the portion of the renovation cost from which the local agency has as yet received no benefit.

VI ACCOUNTING AND REPORTING FOR REAL PROPERTY TRANSACTIONS

A General. A State or local agency that considers expensing the acquisition or improvement of real property under this Instruction must ensure that sufficient funds are available in its current year WIC grant to fund the entire portion of the capital expenditure that benefits WIC. This is because the obligations should relate to the year which the funds are appropriated.

B Reporting. The State agency shall include all outlays incurred for real property acquisitions, renovations and capital repairs with other outlays in column B (NSA Costs) of the FNS-227, WIC Program Annual Closeout Report. These administrative costs should also be reported in the General Administration category on the FNS-227A, Addendum To WIC Program Annual Closeout Report NSA Expenditures. The total amount of funds expended for real property acquisitions, renovations and capital repairs should be identified in the Remarks section of the FNS-227A. If a renovation or capital repair project remains uncompleted when the FNS-227 is completed, the State agency shall report unliquidated obligations for the uncompleted portion and explain this entry in the Remarks section.

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Attachments

WORKSHEET FOR REQUESTS TO PURCHASE REAL PROPERTY

I. Determining the Absence of Other Options

1. Has the State provided information that supports the necessity for locating the site in the proposed area?

2. Has the State provided evidence that it made an effort to locate State/local government-owned or donated space in the proposed area?

3. Has the State provided documentation from some authority which affirms the absence of adequate rental property in the proposed area?

4. Has the State provided evidence to establish that there is insufficient State and/or local monies available to fund the purchase of the proposed site?

5. Has the State examined the cost of alternative sites in the preparation of its request to purchase the proposed site?

6. Has the State explored the practicality of expanding nearby sites or purchasing a mobile site?

II. Determining the Acceptability of a Site

Regions may need to examine a proposed site to determine its acceptability prior to final approval.

1. Is the proposed site centrally located in the area which it is intended to serve?

2. Is the proposed site located in proximity to a hospital and/or local health agency? to public transportation?

3. Is the proposed site large enough to house adequate staff and equipment to accommodate the numbers of participants it is anticipated to serve?

4. Will the proposed site provide easy access for pregnant women, children, and handicapped persons?

5. Can the proposed site handle the program's automation needs (e.g. telephone lines, electrical outlets, and security)?

6. How does the projected purchase cost of the proposed site compare to the cost of equal size rental space in the proposed area (over a 5-year period of time)? The U.S. Department of Housing and Urban Development (HUD) maintains statistics regarding the availability and cost of rental properties nationwide.

7. Can the proposed site be easily adapted/renovated into an adequate clinic setting?

III. Determining WIC's Fair Share of Costs

1. What programs or offices will be located in the building to be purchased?

2. What methodology is being used to calculate each party's fair share of the projected purchase cost? Does the methodology assign to WIC a portion of the cost reasonably commensurate with the benefit WIC receives from use of the space?

IV. Condition for Final Approval

Requests for current fiscal year funds should be submitted to the FNS Regional Offices by July 1 to ensure consideration. Requests submitted after July 1 will be considered as possible.

1. Has the State agreed that in the event that the WIC Program vacates the site that it will be responsible for contacting FNS for disposition instructions in accordance with 7 CFR 3016.31?

WORKSHEET FOR REQUESTS TO RENOVATE OR REPAIR REAL PROPERTY

I. Determining the Absence of Other Options

1. Has the State documented that the landlord will not renovate or repair the building as part of the rental agreement?

2. Has the State provided evidence to establish that there is insufficient State and/or local monies available to fund the cost of the proposed renovation or repair?

3. Has the State obtained at least three estimates in the process of determining the projected cost of the proposed renovation or repair?

4. Has the State examined the availability and cost of alternative sites that do not require renovation in the preparation of its request to renovate or repair a particular site?

5. How does the projected cost of renovation or repair compare to the cost of alternative rental space in the proposed area (over a 5-year period of time)? The U.S. Department of Housing and Urban Development (HUD) maintains statistics regarding the availability and cost of rental properties nationwide.

II. Determining the Acceptability of a Site

For large requests for renovations or repairs, regions may need to examine the site to determine its acceptability prior to final approval.

1. Is the site centrally located in the area which it is intended to serve?

2. Is the site located in proximity to a hospital and/or local health agency? to public transportation?

3. Is the site large enough to house adequate staff and equipment to accommodate the numbers of participants it is anticipated to serve?

4. Does the site provide easy access for pregnant women, children, and handicapped persons?

5. Can the site handle the program's automation needs (e.g. telephone lines, electrical outlets, and security)? Are the costs of any such upgrades included in the renovation costs?

6. Has a recent Management Evaluation identified the inadequacy of the site being proposed for renovation or repair?

7. Is the proposed renovation or repair to address unsafe clinic conditions?

III. Determining WIC's Fair Share of Costs

1. What programs or offices will be located in the area of the building to be renovated or repaired?

2. What methodology is being used to calculate each party's fair share of the projected renovation or repair cost? Does the methodology assign to WIC a portion of the cost reasonably commensurate with the benefit WIC receives from use of the space?

IV. Conditions for Final Approval

Requests for current fiscal year funds should be submitted to the FNS Regional Offices by July 1 to ensure consideration. Requests submitted after July 1 will be considered as possible.

1. If the property is publicly owned, has the State agreed that in the event that the WIC Program vacates the facility that it will pay, from State monies, the Federal Government the non-depreciated value of the renovation/repair paid for with WIC Program funds?

2. If the property is privately owned, has the landlord agreed to extend the lease until the WIC Program has received full benefit from the renovation, or amended the lease agreement to provide for a refund to the local agency of the dollar amount representing the portion of the renovation cost from which the local agency has as yet receive no benefit?