

§ 600.350

10 CFR Ch. II (1–1–10 Edition)

Termination and Enforcement

§ 600.350 Purpose of termination and enforcement.

Sections 600.351 through 600.353 set forth uniform procedures for suspension, termination, enforcement, and disputes.

§ 600.351 Termination.

(a) Awards may be terminated in whole or in part only in accordance with one of the following:

(1) By the contracting officer, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the contracting officer with the consent of the recipient, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to the contracting officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must provide such notice at least 30 calendar days prior to the effective date of the termination. However, if the contracting officer determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, he or she may terminate the award in its entirety.

(b) If the recipient incurred allowable costs prior to the termination, the responsibilities of the recipient referred to in § 600.361(b), including those related to property, apply to the termination of the award, and provision must be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 600.352 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the contracting officer may, in addition to imposing any of the special conditions outlined in

§ 600.304, take one or more of the following actions, as appropriate:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the contracting officer.

(2) Disallow (that is, deny both the use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Apply other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, DOE must provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(c) *Effects of suspension and termination.* Costs resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable, unless the contracting officer expressly authorizes them in the notice of suspension or termination or subsequently authorizes such costs. Other recipient costs during suspension or after termination, which are necessary and not reasonably avoidable, are allowable if the costs:

(1) Result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of a termination, are noncancellable; and

(2) Would be allowable if the award expired normally at the end of the funding period.

(d) *Relationship to debarment and suspension.* The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 10 CFR part 1036.

§ 600.353 Disputes and appeals.

Consistent with 10 CFR 600.22 and part 1024, recipients have the right to appeal certain decisions by contracting officers.

Department of Energy

§ 600.380

AFTER-THE-AWARD REQUIREMENTS

§ 600.360 Purpose.

Sections 600.361 through 600.363 contain procedures for closeout and for subsequent disallowances and adjustments.

§ 600.361 Closeout procedures.

(a) Recipients must submit, within 90 calendar days after the date of completion of the award, all reports required by the terms and conditions of the award. DOE may approve extensions when requested by the recipient.

(b) The following provisions must apply to the closeout:

(1) Unless DOE authorizes an extension, a recipient must liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion of the award as specified in the terms and conditions of the award or in agency implementing instructions.

(2) DOE must make prompt, final payments to a recipient for allowable reimbursable costs under the award being closed out.

(3) The recipient must promptly refund any unobligated balances of cash that DOE has advanced or paid and that are not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(4) When authorized by the terms and conditions of the award, the contracting officer must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(5) The recipient must account for any real property and equipment acquired with Federal funds or received from the Federal Government in accordance with §§ 600.321 through 600.325.

(6) If a final audit is required and has not been performed prior to the closeout of an award, DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 600.362 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of DOE to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 600.316.

(4) Property management requirements in §§ 600.321 through 600.325.

(5) Records retention requirements in § 600.342.

(b) After closeout of an award, the continuing responsibilities under an award may be modified or ended in whole or in part with the consent of the contracting officer and the recipient, provided property management requirements are considered and provisions made for the continuing responsibilities of the recipient, as appropriate.

§ 600.363 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within 30 days after the demand for payment, DOE may reduce the debt in accordance with the procedures and techniques described in 10 CFR part 1015 and OMB Circular A-129, including:

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due to the recipient.

(3) Taking other action permitted by statute or regulation.

(b) Except as otherwise provided by law, DOE may charge interest and administrative fees on an overdue debt in accordance with 31 CFR Chapter IX, parts 900-904, "Federal Claims Collection Standards."

ADDITIONAL PROVISIONS

§ 600.380 Purpose.

The purpose of "Additional Provisions" is to provide alternative requirements for recipients otherwise