

(1) For each fiscal year, each eligible institution with an approved application must receive at least \$500,000; and

(2) If the amount appropriated for a fiscal year for the HBCU Program is insufficient to provide \$500,000 to each eligible institution with an approved application, each grant is ratably reduced. If additional funds become available for the HBCU Program during a fiscal year, each grant is increased on the same basis as it was decreased until the grant amount reaches \$500,000.

(d) The amount of any grant that the Secretary determines will not be required by a grantee for the period for which the grant was made is available for reallocation by the Secretary during that period to other eligible institutions under the formula contained in paragraph (a) of this section.

(Authority: 20 U.S.C. 1063)

Subpart E—What Conditions Must a Grantee Meet?

§ 608.40 What are allowable costs and what are the limitations on allowable costs?

(a) *Allowable costs.* Except as provided in paragraphs (b) and (c) of this section, a grantee may expend grant funds for activities that are related to carrying out the allowable activities included in its approved application.

(b) *Supplement and not supplant.* Grant funds shall be used so that they supplement, and to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant, and in no case supplant those funds.

(c) *Limitations on allowable costs.* A grantee may not—

(1) Spend more than fifty percent of its grant award in each fiscal year for costs relating to constructing or maintaining a classroom, library, laboratory, or other instructional facility; or

(2) Use an indirect cost rate to determine allowable costs under its grant.

(Authority: 20 U.S.C. 1062 and 1066)

§ 608.41 What are the audit and repayment requirements?

(a) (1) A grantee shall provide for the conduct of a compliance and financial

audit of any funds it receives under this part of a qualified, independent organization or person in accordance with the *Standards for Audit of Governmental Organizations, Programs, Activities, and Functions*, 1981 revision, established by the Comptroller General of the United States. This publication is available from the Superintendent of Documents, U.S. Government Printing Office.

(2) The grantee shall have an audit conducted at least once every two years, covering the period since the previous audit, and the grantee shall submit the audit to the Secretary.

(3) If a grantee is audited under Chapter 75 of Title 31 of the United States Code, the Secretary considers that audit to satisfy the requirements of paragraph (a)(1) of this section.

(b) An institution awarded a grant under this part must submit to the Department of Education Inspector General three copies of the audit required in paragraph (a) of this section within six months after completion of the audit.

(c) Any individual or firm conducting an audit described in this section shall give the Department of Education's Inspector General access to records or other documents necessary to review the results of the audit.

(d) A grantee shall repay to the Treasury of the United States any grant funds it received that it did not expend or use to carry out the allowable activities included in its approved application within ten years following the date of the initial grant it received under this part.

(Authority: 20 U.S.C. 1063a and 1063c)

§ 608.42 Under what conditions does the Secretary terminate a grant?

The Secretary terminates any grant under which funds were not expended if an institution loses—

(a) Its accredited status; or

(b) Its legal authority in the State in which it is located—

(1) To be a junior or community college; or

(2) To provide an educational program for which it awards a bachelor's degree.

(Authority: 20 U.S.C. 1063a)