

## **§ 401.4**

### **§ 401.4 Activities prohibited.**

Law enforcement, public relations, harvesting, marketing and processing activities, construction of fisherman use facilities, and activities concerned with landlocked anadromous fish populations (except fish in the Great Lakes that ascend streams to spawn) may not be financed under the Act.

### **§ 401.5 Coordination with States.**

The Secretary will approve an Application For Federal Assistance only after he has coordinated the application with the State office established to review applications under Executive Order 12372 (if the State has established such an office and wishes to review these applications) and other non-Federal entities which have management authority over the resource to be affected.

[48 FR 29137, June 24, 1983]

### **§ 401.6 Prosecution of work.**

(a) Project work shall be carried through to a state of completion acceptable to the Secretary with reasonable promptness. Failure to render satisfactory performance reports or failure to complete the project to the satisfaction of the Secretary shall be cause for suspension of Federal assistance for the project until the project provisions are satisfactorily met. Federal assistance may be terminated upon determination by the Secretary that satisfactory progress has not been maintained. The Secretary shall have the right to inspect and review work at any time.

(b) Research and development work shall be continuously coordinated by the Cooperator with studies conducted by others to avoid unnecessary duplication.

(c) All work shall be performed in accordance with applicable local laws, except when in conflict with Federal laws or regulations, in which case Federal laws or regulations shall prevail.

### **§ 401.7 General information for the Secretary.**

Before any Federal funds may be obligated for any project an applicant shall furnish to the Secretary, upon his request, information regarding the

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laws affecting anadromous fish and the authority of the applicant to participate in the benefits of the Act.

(a) *Document signature.* Individuals authorized to sign project documents under the Commercial Fisheries Research and Development Act of 1964 (78 Stat. 197, as amended), 16 U.S.C. 779 through 779f, or the Federal Aid in Sport Fish Restoration Act (64 Stat. 430, as amended), 16 U.S.C. 777 through 777f, may likewise sign project documents contemplated in this part.

(b) *Program information.* The Secretary may, from time to time, request, and the Cooperators shall furnish, information relating to the administration and maintenance of any project established under the Act.

### **§ 401.8 Availability of funds.**

The period of availability of funds to the States or other non-Federal interests for obligation shall be established by the administering Federal agency.

### **§ 401.9 Payments to cooperators.**

Payments shall be made to Cooperators in accordance with provisions of grant-in-aid awards or project agreements.

### **§ 401.10 Request for payment.**

Request for payment shall be on forms provided by the Secretary, certified as therein prescribed, and submitted to the Regional Director by the Cooperator.

### **§ 401.11 Property as matching funds.**

The non-Federal share of the cost of projects may be in the form of real or personal property. Specific procedures to be used by grantees in placing the value on real or personal property for matching funds are set forth in Attachment F of Federal Management Circular 74–7.

### **§ 401.12 Ownership of property.**

When real property is acquired pursuant to the provisions of the Act, title to such property, or interests therein, shall be vested in the United States, and the conveying instrument shall recite the United States of America as the grantee. However, if the Secretary determines that under the terms of the application for Federal assistance and

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grant-in-aid award or project agreement, the intent and purpose of the Act may be better served by other ownership of such property, an appropriate transfer may be made. When real or personal property is utilized as matching funds, title to such property shall be in the Cooperator unless otherwise specified in the grant-in-aid award or project agreement.

### **§ 401.13 Personnel.**

The Cooperator shall maintain an adequate and competent force of employees to initiate and carry approved work to satisfactory completion.

### **§ 401.14 Inspection.**

Cooperator supervision of each project shall include adequate and continuous inspection. The project will be subject at all times to Federal inspection.

### **§ 401.15 Record retention.**

All records of accounts and reports with supporting documentation thereto, as set forth in Attachment C of Federal Management Circular 74-7, will be retained by the Cooperator for a period of 3 years after submission of the final expenditure report on the project. Record retention for a period longer than 3 years is required if audit findings have not been resolved.

### **§ 401.16 Records and reporting.**

Performance reports and other reports shall be furnished as requested by the Secretary. Cost records shall be maintained separately for each project. The accounts and records maintained by the Cooperator, together with all supporting documents, shall be open at all times to the inspection of authorized representatives of the United States, and copies thereof shall be furnished when requested.

(Approved by the Office of Management and Budget under control number 0648-0102)

[40 FR 26678, June 25, 1975, as amended at 48 FR 57302, Dec. 29, 1983]

### **§ 401.17 Safety and accident prevention.**

In the performance of each project, the Cooperator shall comply with all applicable Federal, State, and local

laws governing safety, health and sanitation.

### **§ 401.18 Contracts.**

A Cooperator may use its own regulations or guidelines in obtaining services by contract or otherwise, provided that they adhere to applicable Federal laws, regulations, policies, guidelines, and requirements, as set forth in Attachment 0 of Federal Management Circular 74-7. However, the Cooperator is the responsible authority, without recourse to the Federal agency, regarding the settlement of such contractual issues.

### **§ 401.19 Statements and payrolls.**

The regulations of the Secretary of Labor applicable to contractors and subcontractors (29 CFR part 3), made pursuant to the Copeland "Anti-Kick-back" Act (18 U.S.C. 874), as amended, are made a part of the regulations in this part by reference. The Cooperator will comply with the regulations in this part and any amendments or modifications thereof, and the Cooperator's prime contractor will be responsible for the submission of statements required of subcontractors thereunder. The foregoing shall apply except as the Secretary of Labor may specifically provide for reasonable limitation, variations, tolerances, and exemptions.

### **§ 401.20 Officials not to benefit.**

No Member of, or Delegate to, Congress, or resident Commissioner, shall be admitted to any share or any part of any project agreement made under the Act, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

### **§ 401.21 Patents and inventions.**

Determination of the patent rights in any inventions or discoveries resulting from work under project agreements entered into pursuant to the Act shall be consistent with the "Government Patent Policy" (President's memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of Government Patent Policy as printed in 36 FR 16889).