

Office of the Secretary of Labor

§ 95.61

(2) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(3) When records are transferred to or maintained by DOL, the 3-year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc., as specified in paragraph (g) of this section.

(c) Copies of original records may be substituted for the original records if authorized by DOL.

(d) DOL shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, DOL may make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The Federal grantor awarding agency, the Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but shall last as long as records are retained.

(f) Unless required by statute, DOL shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when DOL can demonstrate that such records shall be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to DOL.

(g) Indirect cost rate proposals, cost allocations plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost alloca-

tion plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the recipient submits to DOL or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If not submitted for negotiation. If the recipient is not required to submit to DOL or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(Approved by the Office of Management and Budget, Approval Number 1225-0017)

TERMINATION AND ENFORCEMENT

§ 95.60 Purpose of termination and enforcement.

Sections 95.61 and 95.62 set forth uniform suspension, termination and enforcement procedures.

§ 95.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraphs (a)(1), (a)(2), or (a)(3) of this section apply.

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

(2) By grant officers, with the consent of the recipient, in which case the two parties shall 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 grant 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. However, if the grant officer determines in the case of partial termination that the reduced

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or modified portion of the grant will not accomplish the purposes for which the grant was made, the grant officer may terminate the grant in its entirety under either paragraphs (a) (1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 95.71(a), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

§ 95.62 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, DOL may, in addition to imposing any of the special conditions outlined in § 95.14, take one or more of the following actions, as appropriate in the circumstances:

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

(2) Disallow (that is, deny both 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) Take other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, DOL shall 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 of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless DOL expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable

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if paragraphs (c)(1) and (c)(2) of this section apply.

(1) The costs 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.

(2) The costs would be allowable if the award were not suspended or expired normally at the end of the funding period in which the termination takes effect.

(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 E.O.'s 12549 and 12689 and DOL's implementing regulations. See § 95.13 and 29 CFR part 98.

Subpart D—After-the-Award Requirements

§ 95.70 Purpose.

Sections 95.71 through 95.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 95.71 Closeout procedures.

(a) Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. DOL may approve extensions when requested by the recipient.

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

(c) DOL shall make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient shall promptly refund any balances of unobligated cash that DOL has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A–129 governs