

(3) *Appeal procedures*—(i) *Notice of appeal*. A recipient may appeal a decision of the grants officer within 90 calendar days of receiving that decision, by filing a written notice of appeal to the Grant Appeal Authority and to the grants officer. If a recipient elects to use an ADR procedure, the recipient is permitted an additional 60 calendar days to file the written notice of appeal to the Grant Appeal Authority and grants officer.

(ii) *Appeal file*. Within 30 calendar days of receiving the notice of appeal, the grants officer shall forward to the Grant Appeal Authority and the recipient the appeal file, which shall include copies of all documents relevant to the appeal. The recipient may supplement the file with additional documents it deems relevant. Either the grants officer or the recipient may supplement the file with a memorandum in support of its position. The Grant Appeal Authority may request additional information from either the grants officer or the recipient.

(iii) *Decision*. The appeal shall be decided solely on the basis of the written record, unless the Grant Appeal Authority decides to conduct fact-finding procedures or an oral hearing on the appeal. Any fact-finding or hearing shall be conducted using procedures that the Grant Appeal Authority deems appropriate.

(f) *Representation*. A recipient may be represented by counsel or any other designated representative in any claim, appeal, or ADR proceeding brought pursuant to this section, as long as the representative is not otherwise prohibited by law or regulation from appearing before the DoD Component concerned.

(g) *Non-exclusivity of remedies*. Nothing in this section is intended to limit a recipient's right to any remedy under the law.

§ 22.820 Debt collection.

(a) *Purpose*. This section prescribes procedures for establishing debts owed by recipients of grants and cooperative agreements, and transferring them to payment offices for collection.

(b) *Resolution of indebtedness*. The grants officer shall attempt to resolve by mutual agreement any claim of a

recipient's indebtedness to the United States arising out of a grant or cooperative agreement (e.g., by a finding that a recipient was paid funds in excess of the amount to which the recipient was entitled under the terms and conditions of the award).

(c) *Grants officer's decision*. In the absence of such mutual agreement, any claim of a recipient's indebtedness shall be the subject of a grants officer decision, in accordance with § 22.815(b)(2). The grants officer shall prepare and transmit to the recipient a written notice that:

(1) Describes the debt, including the amount, the name and address of the official who determined the debt (e.g., the grants officer under § 22.815(d)), and a copy of that determination.

(2) Informs the recipient that:

(i) Within 30 calendar days of the grants officer's decision, the recipient shall either pay the amount owed to the grants officer (at the address that was provided pursuant to paragraph (c)(1) of this section) or inform the grants officer of the recipient's intention to appeal the decision.

(ii) If the recipient elects not to appeal, any amounts not paid within 30 calendar days of the grants officer's decision will be a delinquent debt.

(iii) If the recipient elects to appeal the grants officer's decision the recipient has 90 calendar days, or 150 calendar days if ADR procedures are used, after receipt of the grants officer's decision to file the appeal, in accordance with § 22.815(e)(3)(i).

(iv) The debt will bear interest, and may include penalties and other administrative costs, in accordance with the debt collection provisions in Chapters 29, 31, and 32 of Volume 5 and Chapters 18 and 19 of Volume 10 of the DoD Financial Management Regulation (DoD 7000.14-R). No interest will be charged if the recipient pays the amount owed within 30 calendar days of the grants officer's decision. Interest will be charged for the entire period from the date the decision was mailed, if the recipient pays the amount owed after 30 calendar days.

(d) *Follow-up*. Depending upon the response from the recipient, the grants officer shall proceed as follows:

(1) If the recipient pays the amount owed within 30 calendar days to the grants officer, the grants officer shall forward the payment to the responsible payment office.

(2) If within 30 calendar days the recipient elects to appeal the grants officer's decision, further action to collect the debt is deferred, pending the outcome of the appeal. If the final result of the appeal is a determination that the recipient owes a debt to the Federal Government, the grants officer shall send a demand letter to the recipient and transfer responsibility for further debt collection to a payment office, as described in paragraph (d)(3) of this section.

(3) If within 30 calendar days the recipient has neither paid the amount due nor provided notice of intent to file an appeal of the grants officer's decision, the grants officer shall send a demand letter to the recipient, with a copy to the payment office that will be responsible for collecting the delinquent debt. The payment office will be responsible for any further debt collection activity, including issuance of additional demand letters (see Chapter 19 of volume 10 of the DoD Financial Management Regulation, DoD 7000.14-R). The grants officer's demand letter shall:

(i) Describe the debt, including the amount, the name and address of the official that determined the debt (e.g., the grants officer under §22.815(d)), and a copy of that determination.

(ii) Notify the recipient that the debt is a delinquent debt that bears interest from the date of the grants officer's decision, and that penalties and other administrative costs may be assessed.

(iii) Identify the payment office that is responsible for the collection of the debt, and notify the recipient that it may submit a proposal to that payment office to defer collection, if immediate payment is not practicable.

(e) *Administrative offset.* In carrying out the responsibility for collecting delinquent debts, a disbursing officer may need to consult grants officers, to

determine whether administrative offset against payments to a recipient owing a delinquent debt would interfere with execution of projects being carried out under grants or cooperative agreements. Disbursing officers may also ask grants officers whether it is feasible to convert payment methods under grants or cooperative agreements from advance payments to reimbursements, to facilitate use of administrative offset. Grants officers therefore should be familiar with guidelines for disbursing officers, in Chapter 19 of Volume 10 of the Financial Management Regulation (DoD 7000.14-R), concerning withholding and administrative offset to recover delinquent debts.

§ 22.825 Closeout audits.

(a) *Purpose.* This section establishes DoD policy for obtaining audits at closeout of individual grants and cooperative agreements. It thereby supplements the closeout procedures specified in:

(1) 32 CFR 32.71 and 32.72, for awards to institutions of higher education and other nonprofit organizations.

(2) 32 CFR 33.50 and 33.51, for awards to State and local governments.

(3) 32 CFR 34.61 and 34.62, for awards to for-profit entities.

(b) *Policy.* Grants officers shall use their judgment on a case-by-case basis, in deciding whether to obtain an audit prior to closing out a grant or cooperative agreement (i.e., there is no specific DoD requirement to obtain an audit prior to doing so). Factors to be considered include:

(1) The amount of the award.

(2) DoD's past experience with the recipient, including the presence or lack of findings of material deficiencies in recent:

(i) Audits of individual awards; or

(ii) Systems-wide financial audits and audits of the compliance of the recipient's systems with Federal requirements, under OMB Circular A-133, where that Circular is applicable. (See §22.715(a)(1)).