

## § 641.750

grantee with respect to the levels achieved for each of the core indicators of performance, compared to the expected levels of performance, and the actual performance of each grantee with respect to the levels achieved for each of the additional indicators of performance. The results of the Department's annual evaluation will be reported to Congress.

### **§ 641.750 Will there be performance-related incentives?**

The Department is authorized by §§ 502(e)(2)(B)(iv) and 517(c)(1) of the 2006 OAA to use recaptured SCSEP funds to provide incentive awards. The Department will exercise this authority at its discretion.

## **Subpart H—Administrative Requirements**

### **§ 641.800 What uniform administrative requirements apply to the use of SCSEP funds?**

(a) SCSEP recipients and sub-recipients must follow the uniform administrative requirements and allowable cost requirements that apply to their type of organization. (OAA § 503(f)(2)).

(b) Governments, State, local, and Indian tribal organizations that receive SCSEP funds under grants or cooperative agreements must follow the common rule implementing OMB Circular A-102, "Grants and Cooperative Agreements with State and Local Governments" (10/07/1994) (further amended 08/29/1997), codified at 29 CFR part 97.

(c) Nonprofit and commercial organizations, institutions of higher education, hospitals, other nonprofit organizations, and commercial organizations that receive SCSEP funds under grants or cooperative agreements must follow the common rule implementing OMB Circular A-110, codified at 29 CFR part 95.

### **§ 641.803 What is program income?**

Program income, as described in 29 CFR 97.25 (State and local governments) and 29 CFR 95.2(bb) (non-profit and commercial organizations), is income earned by the recipient or sub-recipient during the grant period that is directly generated by an allowable activity supported by grant funds or

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earned as a result of the award of grant funds. Program income includes income earned from license fees and royalties for copyrighted material, patents, patent applications, trademarks, and inventions produced under an award. (See 29 CFR 95.24(e) (non-profit and commercial organizations) and 29 CFR 97.25(e) (State and local governments)). Costs of generating SCSEP program income may be deducted from gross income received by SCSEP recipients and sub-recipients to determine SCSEP program income earned or generated provided these costs have not been charged to the SCSEP.

### **§ 641.806 How must SCSEP program income be used?**

(a) SCSEP recipients that earn or generate program income during the grant period must add the program income to the Federal and non-Federal funds committed to the SCSEP and must use it to further the purposes of the program and in accordance with the terms and conditions of the grant award. Program income may only be spent during the grant period in which it was earned (except as provided for in paragraph (b)), as provided in 29 CFR 95.24(a) (non-profit and commercial organizations) or 29 CFR 97.25(g) (2) (State and local governments), as applicable.

(b)(1) Except as provided for in paragraph (b)(2), recipients that continue to receive a SCSEP grant from the Department must spend program income earned from SCSEP-funded activities in the Program Year in which the earned income was received.

(2) Any program income remaining at the end of the Program Year in which it was earned will remain available for expenditure in the subsequent Program Year only. Any program income remaining after the second Program Year must be remitted to the Department.

(c) Recipients that do not continue to receive a SCSEP grant from the Department must remit unexpended program income earned during the grant period from SCSEP funded activities to the Department at the end of the grant period. These recipients have no obligation to the Department for program income earned after the end of the grant period.