

## Surface Mining Reclamation and Enforcement, Interior

## § 735.21

(2) The approved budget, including the Federal share;

(3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period; and

(4) Permissible transfers of funds to other State agencies.

(b) The Director or his authorized designee may permit an agency to assign functions and funds to other State agencies. The Director or his authorized designee shall require the grantee agency to retain responsibility for overall administration of the grant, including use of funds, accomplishment of functions and reporting.

(c) Pre-agreement costs for program development grants shall be allowed only as specified in the grant agreement.

(d) The Director or his authorized designee shall transmit four copies of the grant agreement by certified mail, return receipt requested, to the agency for signature. The agency shall execute the grant agreement and return all copies of it within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Director or his authorized designee.

(e) The Director or his authorized designee shall sign the grant agreement upon its return from the agency and return one copy to the agency. The grant is effective and constitutes an obligation of Federal funds in the amount and for the purposes stated in the grant agreement at the time the Director or his authorized designee signs the agreement.

(f) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover cost overruns.

### § 735.20 Grant amendments.

(a) A grant amendment is a written alteration in the grant amount, grant terms or conditions, budget or period, or other administrative, technical, or financial agreement whether accomplished on the initiative of the agency or the Director or his authorized designee, or by mutual action of the agen-

cy and the Director or his authorized designee.

(b) The agency shall promptly notify the Director or his authorized designee in writing of events or proposed changes which may require a grant amendment, such as—

(1) Rebudgeting;

(2) Changes which may affect the approved scope or objective of a program; or

(3) Changes which may increase or substantially decrease the total cost of a program.

(c) The Director or his authorized designee shall approve or disapprove each proposed amendment within thirty days of receipt, or as soon thereafter as possible, and shall notify the agency in writing of the approval or disapproval of the amendment.

(d) The date the Director or his authorized designee signs the grant amendment establishes the effective date of the action. If no time period is specified in the grant amendment, then the amendment applies to the entire grant period.

[42 FR 62706, Dec. 13, 1977. Redesignated at 44 FR 15312, Mar. 13, 1979, and amended at 47 FR 38492, Aug. 31, 1982]

### § 735.21 Grant reduction and termination.

(a) *Conditions for reduction or termination.* (1) If an agency violates the terms of a grant agreement, the Director or his authorized designee may reduce or terminate the grant.

(2) If an agency fails to implement, enforce or maintain an approved program, or cooperative agreement, the Director or his authorized designee shall terminate the administration and enforcement grant or cooperative agreement grant.

(3) If an agency fails to implement, enforce or maintain only a part of the program, the Director or his authorized designee shall reduce the grant to the amount of the program being operated by the agency.

(4) If an agency is not in compliance with the following nondiscrimination provisions, the Director or his authorized designee shall terminate the grant—

(i) Title VI of the Civil Rights Act of 1964 (78 Stat. 252). Nondiscrimination in

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Federally Assisted Programs, which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations at 43 CFR part 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex, or national origin, and the implementing regulations at 41 CFR part 60.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs.

(5) If an agency fails to enforce the financial interest provisions of part 706 of this chapter the Director shall terminate the grant.

(6) If an agency fails to submit reports required by this part or part 705 of this chapter the Director shall reduce or terminate the grant.

(b) *Grant reduction and termination procedures.* (1) The Director or his authorized designee shall give at least 10 days written notice to the agency by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Director or his authorized designee shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Director or his authorized designee shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The Director or his authorized designee shall notify the agency of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the agency shall refund or credit to the United States that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However any portion of the grant that is required to meet commit-

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ments made prior to the effective date of termination shall be retained by the agency.

(5) The agency shall reduce the amount of outstanding commitments insofar as possible and report to the Director or his authorized designee the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate the agency shall not make any new commitments without the approval of the Director or his authorized designee.

(7) The Director or his authorized designee may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74-4.

(c) *Appeals.* (1) An agency may appeal the Director or his authorized designee's decision to reduce or terminate a grant to the Director within 30 days of the Director or his authorized designee's decision.

(2) An agency shall include in an appeal—

(i) The decision being appealed, and

(ii) The facts which the agency believes justify a reversal or modification of the decision.

(3) The Director shall act upon appeals within 30 days of their receipt, or as soon thereafter as possible.

[58 FR 41938, Aug. 5, 1993]

### § 735.22 Audit.

The agency shall arrange for an independent audit no less frequently than once every two years, pursuant to the requirements of Office of Management and Budget Circular No. A-102, Attachment P. The audits will be performed in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" and the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs" published by the Comptroller General of the United States and guidance provided by the cognizant Federal audit agency.

[47 FR 38492, Aug. 31, 1982]

### § 735.23 Administrative procedures.

The agency shall follow administrative procedures governing accounting,