

## § 33.52

(e) Audit requirements in § 33.26.

[53 FR 8070 and 8087, Mar. 11, 1988. Redesignated and amended at 57 FR 6199 and 6201, Feb. 21, 1992]

### § 33.52 Collection of amounts due.

(a) Any funds paid to a grantee in excess of the amount to which the grantee is finally determined to be entitled under the terms of the award constitute a debt to the Federal Government. If not paid within a reasonable period after demand, the Federal agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements,

(2) Withholding advance payments otherwise due to the grantee, or

(3) Other action permitted by law.

(b) Except where otherwise provided by statutes or regulations, the Federal agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

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## PART 34—ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH FOR-PROFIT ORGANIZATIONS

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AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 113.

SOURCE: 63 FR 12204, Mar. 12, 1998, unless otherwise noted.

### Subpart A—General

#### § 34.1 Purpose.

(a) This part prescribes administrative requirements for awards to for-profit organizations.

(b) Applicability to prime awards and subawards is as follows:

(1) *Prime awards.* DoD Components shall apply the provisions of this part to awards to for-profit organizations. DoD Components shall not impose requirements that are in addition to, or inconsistent with, the requirements provided in this part, except:

(i) In accordance with the deviation procedures or special award conditions in § 34.3 or § 34.4, respectively; or

(ii) As required by Federal statute, Executive order, or Federal regulation

implementing a statute or Executive order.

(2) *Subawards.* (i) Any legal entity (including any State, local government, university or other nonprofit organization, as well as any for-profit entity) that receives an award from a DoD Component shall apply the provisions of this part to subawards with for-profit organizations. It should be noted that subawards (see definition in § 34.2) are financial assistance for substantive programmatic performance and do not include recipients' procurement of goods and services.

(ii) For-profit organizations that receive prime awards covered by this part shall apply to each subaward the administrative requirements that are applicable to the particular type of subrecipient (e.g., 32 CFR part 33 specifies requirements for subrecipients that are States or local governments, and 32 CFR part 32 contains requirements for universities or other nonprofit organizations).

#### § 34.2 Definitions.

The following are definitions of terms as used in this part. Grants officers are cautioned that terms may be defined differently in this part than they are in other parts of the DoD Grant and Agreement Regulations (DoDGARs).

*Advance.* A payment made by Treasury check or other appropriate payment mechanism to a recipient upon its request either before outlays are made by the recipient or through the use of predetermined payment schedules.

*Award.* A grant or a cooperative agreement other than a technology investment agreement (TIA). TIAs are covered by part 37 of the DoDGARs (32 CFR part 37). Portions of this part may apply to a TIA, but only to the extent that 32 CFR part 37 makes them apply.

*Cash contributions.* The recipient's cash outlay, including the outlay of money contributed to the recipient by third parties.

*Closeout.* The process by which the grants officer administering an award made by a DoD Component determines that all applicable administrative actions and all required work of the

award have been completed by the recipient and DoD Component.

*Contract.* Either:

(1) A procurement contract made by a recipient under a DoD Component's award or by a subrecipient under a subaward; or

(2) A procurement subcontract under a contract awarded by a recipient or subrecipient.

*Cost sharing or matching.* That portion of project or program costs not borne by the Federal Government.

*Disallowed costs.* Those charges to an award that the grants officer administering an award made by a DoD Component determines to be unallowable, in accordance with the applicable Federal cost principles or other terms and conditions contained in the award.

*DoD Component.* A Military Department, Defense Agency, DoD Field Activity, or organization within the Office of the Secretary of Defense that provides or administers an award to a recipient.

*Equipment.* Tangible nonexpendable personal property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. That definition applies for the purposes of the Federal administrative requirements in this part. However, the recipient's policy may be to use a lower dollar value for defining "equipment," and nothing in this part should be construed as requiring the recipient to establish a higher limit for purposes other than the administrative requirements in this part.

*Excess property.* Property under the control of any DoD Component that, as determined by the head thereof, is no longer required for its needs or the discharge of its responsibilities.

*Expenditures.* See the definition for outlays in this section.

*Federally owned property.* Property in the possession of, or directly acquired by, the Government and subsequently made available to the recipient.

*Funding period.* The period of time when Federal funding is available for obligation by the recipient.