

§ 24.44

(c) *Effects of suspension and termination.* Costs of grantee or subgrantee resulting from obligations incurred by the grantee or subgrantee during a suspension or after termination of an award are not allowable unless the awarding agency expressly authorizes them in the notice of suspension or termination or subsequently. Other grantee or subgrantee costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if:

(1) The costs result from obligations which were properly incurred by the grantee or subgrantee before the effective date of suspension or termination, are not in anticipation of it, and, in the case of a termination, are noncancellable, and,

(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 grantee or subgrantee from being subject to "Debarment and Suspension" under E.O. 12549 (see § 24.35).

§ 24.44 Termination for convenience.

Except as provided in § 24.43 awards may be terminated in whole or in part only as follows:

(a) By the awarding agency with the consent of the grantee or subgrantee 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, or

(b) By the grantee or subgrantee upon written notification to the awarding agency, setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of a partial termination, the awarding agency determines that the remaining portion of the award will not accomplish the purposes for which the award was made, the awarding agency may terminate the award in its entirety under either § 24.43 or paragraph (a) of this section.

15 CFR Subtitle A (1-1-03 Edition)

Subpart D—After-the-Grant Requirements

§ 24.50 Closeout.

(a) *General.* The Federal agency will close out the award when it determines that all applicable administrative actions and all required work of the grant has been completed.

(b) *Reports.* Within 90 days after the expiration or termination of the grant, the grantee must submit all financial, performance, and other reports required as a condition of the grant. Upon request by the grantee, Federal agencies may extend this timeframe. These may include but are not limited to:

(1) *Final performance or progress report.*

(2) *Financial Status Report (SF 269) or Outlay Report and Request for Reimbursement for Construction Programs (SF-271) (as applicable).*

(3) *Final request for payment (SF-270) (if applicable).*

(4) *Invention disclosure (if applicable).*

(5) *Federally-owned property report:*

In accordance with § 24.32(f), a grantee must submit an inventory of all federally owned property (as distinct from property acquired with grant funds) for which it is accountable and request disposition instructions from the Federal agency of property no longer needed.

(c) *Cost adjustment.* The Federal agency will, within 90 days after receipt of reports in paragraph (b) of this section, make upward or downward adjustments to the allowable costs.

(d) *Cash adjustments.* (1) The Federal agency will make prompt payment to the grantee for allowable reimbursable costs.

(2) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other grants.

§ 24.51 Later disallowances and adjustments.

The closeout of a grant does not affect:

(a) The Federal agency's right to disallow costs and recover funds on the basis of a later audit or other review;

Office of the Secretary, Commerce

§ 25.1

(b) The grantee's obligation to return any funds due as a result of later refunds, corrections, or other transactions;

(c) Records retention as required in § 24.42;

(d) Property management requirements in §§ 24.31 and 24.32; and

(e) Audit requirements in § 24.26.

§ 24.52 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 Chapter II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Entitlements [Reserved]

PART 25—PROGRAM

FRAUD CIVIL REMEDIES

Sec.

- 25.1 Basis and purpose.
- 25.2 Definitions.
- 25.3 Basis for civil penalties and assessments.
- 25.4 Investigation.
- 25.5 Review by the reviewing official.
- 25.6 Prerequisites for issuing a complaint.
- 25.7 Complaint.
- 25.8 Service of complaint.
- 25.9 Answer.
- 25.10 Default upon failure to file an answer.
- 25.11 Referral of complaint and answer to the ALJ.
- 25.12 Notice of hearing.
- 25.13 Parties to the hearing.
- 25.14 Separation of functions.
- 25.15 Ex parte contacts.
- 25.16 Disqualification of reviewing official or ALJ.

- 25.17 Rights of parties.
- 25.18 Authority of the ALJ.
- 25.19 Prehearing conferences.
- 25.20 Disclosure of documents.
- 25.21 Discovery.
- 25.22 Exchange of witness lists, statements, and exhibits.
- 25.23 Subpoena for attendance at hearing.
- 25.24 Protective order.
- 25.25 Fees.
- 25.26 Form, filing and service of papers.
- 25.27 Computation of time.
- 25.28 Motions.
- 25.29 Sanctions.
- 25.30 The hearing and burden of proof.
- 25.31 Determining the amount of penalties and assessments.
- 25.32 Location of hearing.
- 25.33 Witnesses.
- 25.34 Evidence.
- 25.35 The record.
- 25.36 Post-hearing briefs.
- 25.37 Initial decision.
- 25.38 Reconsideration of initial decision.
- 25.39 Appeal to authority head.
- 25.40 Stays ordered by the Department of Justice.
- 25.41 Stay pending appeal.
- 25.42 Judicial review.
- 25.43 Collection of civil penalties and assessments.
- 25.44 Right to administrative offset.
- 25.45 Deposit in Treasury of United States.
- 25.46 Compromise or settlement.
- 25.47 Limitations.

AUTHORITY: Secs. 6101–6104, Pub. L. 99–509, 100 Stat. 1874 (31 U.S.C. 3801–3812); Sec. 4, as amended, and sec. 5, Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–134, 110 Stat. 1321, 28 U.S.C. 2461 note.

SOURCE: 55 FR 47854, Nov. 16, 1990, unless otherwise noted.

FRAUD CIVIL REMEDIES

§ 25.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Public Law 99–509, section 6101–6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801–3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part (1) establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and (2)