

**§ 70.53**

**28 CFR Ch. I (7-1-03 Edition)**

(ii) Reports must be on an accrual basis. Recipients are not required to convert their accounting system, but must develop such accrual information through best estimates based on an analysis of the documentation on hand.

(iii) The Department requires the SF-269, SF-269A, or turnaround document to be submitted no later than forty five days after the calendar quarter. The final report is due ninety days from the end date of the award.

(b) When the Department needs additional information or more frequent reports, the following will be observed.

(1) When additional information is needed to comply with legislative requirements, the Department will issue instructions to require recipients to submit such information under the "Remarks" section of the reports.

(2) When the Department determines that a recipient's accounting system does not meet the standards in § 70.21, additional pertinent information to further monitor awards will be obtained upon written notice to the recipient until such time as the system is brought up to standard. The Department, in obtaining this information, will comply with report clearance requirements of 5 CFR part 1320.

(3) The Department will accept the identical information from the recipients in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.

(4) The Department will provide computer or electronic outputs to recipients when such expedites or contributes to the accuracy of reporting.

[Order No. 1980-95, 60 FR 38242, July 26, 1995; Order No. 1998-95, 60 FR 57932, Nov. 24, 1995]

**§ 70.53 Retention and access requirements for records.**

(a) This section sets forth requirements for record retention and access to records for awards to recipients. The Department will not impose any other record retention or access requirements upon recipients.

(b) Financial records, supporting documents, statistical records, and all other records pertinent to an award must be retained for a period of three years from the date of submission of the final expenditure report or, for awards that are renewed quarterly or

annually, from the date of the submission of the quarterly or annual financial report, as authorized by the Department. The only exceptions are the following:

(1) If any litigation, claim, or audit is started before the expiration of the three year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(2) Records for real property and equipment acquired with Federal funds must be retained for three years after final disposition.

(3) When records are transferred to or maintained by the Department, the three year retention requirement is not applicable to the recipient.

(4) Indirect cost rate proposals, cost allocations plans, etc. as specified in § 70.53(g).

(c) Copies of original records may be substituted for the original records if authorized by the Department.

(d) The Department will request transfer of certain records to its custody from recipients when it determines that the records possess long term retention value. However, in order to avoid duplicate recordkeeping, the Department will make arrangements for recipients to retain any records that are continuously needed for joint use.

(e) The Department, its Inspector General, Comptroller General of the United States, or any of their duly authorized representatives, have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the awards, in order to make audits, examinations, excerpts, transcripts and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but must last as long as records are retained.

(f) Unless required by statute, the Department will not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when the

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Department can demonstrate that such records must be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the Department.

(g) Indirect cost rate proposals, cost allocation plans, etc. Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the recipient submits to the Department or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the three year retention period for its supporting records starts on the date of such submission.

(2) *If not submitted for negotiation.* If the recipient is not required to submit to the Department or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the three year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

[Order No. 1980-95, 60 FR 38242, July 26, 1995; Order No. 1998-95, 60 FR 57932, Nov. 24, 1995]

### TERMINATION AND ENFORCEMENT

#### § 70.60 Purpose of termination and enforcement.

Sections 70.61 and 70.62 set forth uniform suspension, termination and enforcement procedures.

#### § 70.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraph (a) (1), (2) or (3) of this section apply.

(1) By the Department, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the Department with the consent of the recipient, in which case the

two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(3) By the recipient upon sending to the Department written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Department determines in the case of partial termination that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety under either paragraph (a) (1) or (2) of this section.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 70.71(a), including those for property management as applicable, must be considered in the termination of the award, and provision must be made for continuing responsibilities of the recipient after termination, as appropriate.

#### § 70.62 Enforcement.

(a) *Remedies for noncompliance.* If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute, regulation, assurance, application, or notice of award, the Department will, in addition to imposing any of the special conditions outlined in § 70.14, take one or more of the following actions, as appropriate in the circumstances.

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the Department.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(3) Wholly or partly suspend or terminate the current award.

(4) Withhold further awards for the project or program.

(5) Take other remedies that may be legally available.

(b) *Hearings and appeals.* In taking an enforcement action, the Department will provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute