

that such records shall 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 DoD Component making the award.

(g) Indirect cost proposals, cost allocation plans, and other cost accounting documents (such as documents related to computer usage chargeback rates), along with their supporting records, shall be retained for a 3-year period, as follows:

(1) If a recipient is required to submit an indirect-cost proposal, cost allocation plan, or other computation to the cognizant Federal agency, for purposes of negotiating an indirect cost rate or other rates, the 3-year retention period starts on the date of the submission. This retention requirement also applies to subrecipients submitting similar documents for negotiation to the recipient.

(2) If the recipient or the subrecipient is not required to submit the documents or supporting records for negotiating an indirect cost rate or other rates, the 3-year retention period for the documents and records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(h) If the information described in this section is maintained on a computer, recipients shall retain the computer data on a reliable medium for the time periods prescribed. Recipients may transfer computer data in machine readable form from one reliable computer medium to another. Recipients' computer data retention and transfer procedures shall maintain the integrity, reliability, and security of the original computer data. Recipients shall also maintain an audit trail describing the data transfer. For the record retention time periods prescribed in this section, recipients shall not destroy, discard, delete, or write over such computer data.

#### TERMINATION AND ENFORCEMENT

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

Sections 34.51 through 34.53 set forth uniform procedures for suspension, termination, enforcement, and disputes.

##### § 34.51 Termination.

(a) Awards may be terminated in whole or in part only in accordance with one of the following:

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

(2) By the grants officer with the consent of the recipient, 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.

(3) By the recipient upon sending to the grants officer written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must provide such notice at least 30 calendar days prior to the effective date of the termination. However, if the grants officer determines that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, he or she may terminate the award in its entirety.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 34.61(b), including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.

##### § 34.52 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 grants officer may, in addition to imposing any of the special conditions outlined in § 34.4, 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 grants officer and DoD Component.

(2) Disallow (that is, deny both use of funds and any applicable matching