

Social Security Administration

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them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after termination that are necessary and not reasonably avoidable are allowable if paragraphs (c)(1) and (2) of this section apply.

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

(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 a recipient from being subject to debarment and suspension under Executive Orders 12549 and 12689.

Subpart D—After-the-Award Requirements

§ 435.70 Purpose.

Sections 435.71 through 435.73 contain closeout procedures and other procedures for subsequent disallowances and adjustments.

§ 435.71 Closeout procedures.

(a) Recipients must submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award. SSA may approve extensions when requested by the recipient.

(b) Unless SSA authorizes an extension, a recipient must liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the date of completion as specified in the terms and conditions of the award or in agency implementing instructions.

(c) SSA will make prompt payments to a recipient for allowable reimbursable costs under the award being closed out.

(d) The recipient must promptly refund any balances of unobligated cash that SSA has advanced or paid and that is not authorized to be retained by

the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

(e) When authorized by the terms and conditions of the award, SSA will make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The recipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with §§ 435.31 through 435.37.

(g) In the event a final audit has not been performed prior to the closeout of an award, SSA will retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

§ 435.72 Subsequent adjustments and continuing responsibilities.

(a) The closeout of an award does not affect any of the following:

(1) The right of SSA to disallow costs and recover funds on the basis of a later audit or other review.

(2) The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions.

(3) Audit requirements in § 435.26.

(4) Property management requirements in §§ 435.31 through 435.37.

(5) Records retention as required in § 435.53.

(b) After closeout of an award, a relationship created under an award may be modified or ended in whole or in part with the consent of SSA and the recipient, provided the responsibilities of the recipient referred to in § 435.73(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

§ 435.73 Collection of amounts due.

(a) *Methods of collection.* Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award

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constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, SSA may reduce the debt by:

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

(2) Withholding advance payments otherwise due to the recipient; or

(3) Taking other action permitted by statute.

(b) *Charging of interest.* Except as otherwise provided by law, SSA will charge interest on an overdue debt in accordance with 4 CFR Chapter II, "Federal Claims Collection Standards."

Subpart E—Disputes

§ 435.80 Appeal process.

(a) *Levels of appeal.* Grantee institutions (grantees) may appeal certain post-award adverse grant administration decisions made by SSA officials in the administration of discretionary grant programs. SSA has two levels of appeal:

(1) Initial appeal to the Associate Commissioner for the Office of Acquisition and Grants (ACOAG) from an adverse decision rendered by the Grant Management Officer (GMO); and

(2) Final appeal to the Commissioner of Social Security from an adverse decision rendered by the ACOAG.

(b) *Decisions that may be appealed.* The following types of adverse post-award written decisions by the GMO may be appealed:

(1) A disallowance or other determination denying payment of an amount claimed under an award. This does not apply to determinations of award amount or disposition of unobligated balances, or selection in the award document of an option for disposition of program-related income.

(2) A termination of an award for failure of the grantee to comply with any law, regulation, assurance, term, or condition applicable to the award.

(3) A denial of a noncompeting continuation award under the project period system of funding where the denial is for failure to comply with the terms and conditions of a previous award.

(4) A voiding of an award on the basis that it was fraudulently obtained or

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because the award was not authorized by statute or regulation.

(c) *Notice of adverse decision and requirements of grantee response.* The Grants Management Officer's (GMO) adverse post-award written decision should include the following statement:

This is the final decision of the Grants Management Officer. It will become the final decision of the Social Security Administration unless you submit a request for review of this decision to the Associate Commissioner for the Office of Acquisition and Grants, 1710 Gwynn Oak Avenue, Baltimore, Maryland 21207-5279. Your request for review must be in writing, include a copy of this decision, and fully state why you disagree with it. The request for review must be received by the ACOAG no later than 30 calendar days after the date of this decision.

§ 435.81 Initial appeal.

(a) *Timeliness of appeal to ACOAG.* A grantee may appeal an adverse decision rendered by the GMO by submitting to the ACOAG a written request for review of the adverse decision. The written request for review must be received by the ACOAG no later than 30 calendar days after the date of the GMO's adverse decision. Any request for review that is received after the thirtieth day will be dismissed as untimely.

(b) *Content of appeal to ACOAG.* The written request for review should fully explain why the grantee disagrees with the GMO's decision, state the pertinent facts and law relied upon, and provide any relevant documentation in support of the grantee's position.

(c) *Decision of ACOAG.* The ACOAG, or the ACOAG's delegate, will issue a written decision within 30 calendar days of the date of receipt of the written request for review. If the written decision is adverse to the grantee, the decision will include the following statement:

This is the final decision of the Office of Acquisition and Grants. It will become the final decision of the Social Security Administration unless you submit a request for review of this decision to the Commissioner of Social Security, Social Security Administration, Baltimore, Maryland 21235-0001. Your request for review must be in writing, include a copy of this decision, and fully state why you disagree with it. The request for review must be received by the Commissioner no later than 15 calendar days after the date