

§ 84.85 Reports and records.

(a) *Purpose of reports and records.* Paragraphs (b) and (c) of this section set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

(b) *Monitoring and reporting program performance.* (1) Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients shall monitor subawards to ensure subrecipients have met the audit requirements as delineated in § 84.82(e).

(2) The Federal awarding agency shall prescribe the frequency with which the performance reports shall be submitted. Except as provided in paragraph (b)(6) of this section, performance reports shall not be required more frequently than quarterly or less frequently than annually. Annual reports shall be due 90 calendar days after the grant year; quarterly or semi-annual reports shall be due 30 days after the reporting period. The Federal awarding agency may require annual reports before the anniversary dates of multiple year awards in lieu of these requirements. The final performance reports are due 90 calendar days after the expiration or termination of the award.

(3) If inappropriate, a final technical or performance report shall not be required after completion of the project.

(4) When required, performance reports shall generally contain, for each award, brief information on each of the following:

(i) A comparison of actual accomplishments with the goals and objectives established for the period, the findings of the investigator, or both. Whenever appropriate and the output of programs or projects can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(ii) Reasons why established goals were not met, if appropriate.

(5) Recipients shall not be required to submit more than the original and two copies of performance reports.

(6) Recipients shall immediately notify HUD of developments that have a

significant impact on the award-supported activities. Also, notification shall be given in the case of problems, delays, or adverse conditions which materially impair the ability to meet the objectives of the award. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(7) HUD may make site visits, as needed.

(8) HUD shall comply with clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

(c) *Retention and access requirements for records.* (1) This paragraph (c) sets forth requirements for record retention and access to records for awards to recipients. Federal awarding agencies shall not impose any other record retention or access requirements upon recipients.

(2) Financial records, supporting documents, statistical records, and all other records pertinent to an award shall 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 HUD. The only exceptions are the following.

(i) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

(ii) Records for real property and equipment acquired with Federal funds shall be retained for 3 years after final disposition.

(iii) When records are transferred to or maintained by the Federal awarding agency, the 3-year retention requirement is not applicable to the recipient.

(3) Copies of original records may be substituted for the original records if authorized by HUD.

(4) HUD shall request transfer of certain records to its custody from recipients when it determines that the records possess long term retention

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value. However, in order to avoid duplicate recordkeeping, HUD may make arrangements for recipients to retain any records that are continuously needed for joint use.

(5) HUD, the 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 (c)(5) are not limited to the required retention period, but shall last as long as records are retained.

(6) Unless required by statute, HUD shall not place restrictions on recipients that limit public access to the records of recipients that are pertinent to an award, except when HUD can demonstrate 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 HUD.

§ 84.86 Termination and enforcement.

(a) *Termination.* (1) Awards may be terminated in whole or in part only if paragraphs (a)(1)(i), (a)(1)(ii), or (a)(1)(iii) of this section apply.

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

(ii) By HUD 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.

(iii) By the recipient upon sending to HUD 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 HUD 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 paragraphs (a)(1)(i) or (a)(1)(ii) of this section.

(2) If costs are allowed under an award, the responsibilities of the recipient referred to in §84.87(a)(1), 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.

(3) If costs are allowed, the cost principles in §84.27 apply, even though the award was made on a lump-sum basis. Alternatively, a termination settlement may be reached by prorating the grant amount against the percentage of completion or by some other method as determined by the Grant Officer, as long as the method used results in an equitable settlement to both parties.

(b) *Enforcement.* (1) *Remedies for non-compliance.* 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, HUD may, in addition to imposing any of the special conditions outlined in §84.14, take one or more of the following actions, as appropriate in the circumstances.

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

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

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

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

(2) *Hearings and appeals.* In taking an enforcement action, HUD shall provide the recipient an opportunity for hearing, appeal, or other administrative proceeding to which the recipient is entitled under any statute or regulation applicable to the action involved.

(3) *Effects of suspension and termination.* Costs of a recipient resulting from obligations incurred by the recipient during a suspension or after termination of an award are not allowable unless HUD expressly authorizes them in the notice of suspension or termination or subsequently. Other recipient costs during suspension or after