

a contractor violates or breaches the contract terms, and provide for remedial actions as may be appropriate.

(b) All contracts in excess of the small purchase threshold shall contain suitable provisions for termination by the recipient, including the manner by which termination shall be effected and the basis for settlement. In addition, contracts must describe conditions under which the contract may be terminated for default, as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) Except as otherwise required by statute, an award that requires the contracting (or subcontracting) for construction or facility improvements must provide for the recipient to follow its own requirements relating to bid guarantees, performance bonds, and payment bonds unless the construction contract or subcontract exceeds \$100,000. For those contracts or subcontracts exceeding \$100,000, the Secretary may accept the bonding policy and requirements of the recipient, provided the Secretary has made a determination that the Federal Government's interest is adequately protected. If a determination has not been made, the minimum requirements are as follows:

(1) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder shall, upon acceptance of his bid, execute contractual documents as may be required within the time specified.

(2) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under a contract.

(3) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by statute of all persons supplying labor and material in the execution of the work provided for in the contract.

(4) Where bonds are required, the bonds must be obtained from companies holding certificates of authority as acceptable sureties pursuant to 31 CFR Part 223—Surety Companies Doing Business with the United States.

(d) All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients must include a provision to the effect that the recipient, ED, the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

(e) All contracts, including small purchases, awarded by recipients and their contractors must contain the procurement provisions of appendix A to this part, as applicable.

(Authority: 20 U.S.C. 1221e-3, 3474; OMB Circular A-110)

#### REPORTS AND RECORDS

##### § 74.50 Purpose of reports and records.

Sections 74.51 through 74.53 establish the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also establish record retention requirements.

(Authority: 20 U.S.C. 1221e-3, 3474; OMB Circular A-110)

##### § 74.51 Monitoring and reporting program performance.

(a) 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 in § 74.26.

(b) The Secretary prescribes the frequency with which the performance reports shall be submitted. Except as provided in § 74.51(f), performance reports are not required more frequently than quarterly or, less frequently than annually. Annual reports are due 90 calendar days after the grant year; quarterly or semi-annual reports are due 30 days after the reporting period.

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The Secretary 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.

(c) If inappropriate, a final technical or performance report is not required after completion of the project.

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

(1) 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, this quantitative data should be related to cost data for computation of unit costs.

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

(3) Other pertinent information including, when appropriate, analysis, and explanation of cost overruns or high unit costs.

(e) Recipients are not required to submit more than the original and two copies of performance reports.

(f) Recipients shall immediately notify the Secretary of developments that have a significant impact on the award-supported activities. Also, notification must 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 must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

(g) The Secretary may make site visits, as needed.

(h) The Secretary complies with the clearance requirements of 5 CFR part 1320 when requesting performance data from recipients.

(Approved by the Office of Management and Budget under control number 1880-0513)

(Authority: 20 U.S.C. 1221e-3, 3474; OMB Circular A-110)

[59 FR 34724, July 6, 1994, as amended at 60 FR 6660, Feb. 3, 1995]

## 34 CFR Subtitle A (7-1-06 Edition)

### § 74.52 Financial reporting.

(a) The following forms or other forms as may be approved by OMB are authorized for obtaining financial information from recipients.

(1) *SF-269 or SF-269A—Financial Status Report.* (i) Recipients are required to use the SF-269 or SF-269A to report the status of funds for all nonconstruction projects or programs. The Secretary may not require the SF-269 or SF-269A when, the Secretary determines that SF-270—Request for Advance or Reimbursement, or SF-272—Report of Federal Cash Transactions—provides adequate information to meet the Department's needs, except that a final SF-269 or SF-269A is required at the completion of the project when the SF-270 is used only for advances.

(ii) The Secretary prescribes whether the report is on a cash or accrual basis. If the Secretary requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient is not required to convert its accounting system, but shall develop accrual information through best estimates based on an analysis of the documentation on hand.

(iii) The Secretary determines the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report is not required more frequently than quarterly or less frequently than annually. A final report is required at the completion of the agreement.

(iv) The Secretary requires recipients to submit the SF-269 or SF-269A (an original and no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extensions of reporting due dates may be approved by the Secretary upon request of the recipient.

(2) *SF-272—Report of Federal Cash Transactions.* (i) When funds are advanced to recipients the Secretary requires each recipient to submit the SF-272 and, when necessary, its continuation sheet, SF-272a. The Secretary