

## § 110.80

least 75 percent of the funds provided were made available to LEPCs for developing, improving, and implementing emergency plans; and the tracing of funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(2) Permit the tracing of funds to a level of expenditure adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

(b) The financial management systems of Indian tribes and any subgrantees must meet the standards of 49 CFR 18.20, including the ability to trace funds provided for training to a level of expenditure adequate to establish that at least 75 percent of the funds provided were made available for the purposes of training public sector employees employed or used by political subdivisions.

(c) Advances shall be made to States and Indian tribes consistent with 49 CFR part 18 and 31 CFR part 205. The Associate Administrator shall base these advances on demonstrated need, which will be determined on a case-by-case basis, considering such factors as State/Tribal budget constraints and reductions in amounts budgeted for hazardous materials activities. To obtain an advance, a State or Indian tribe must comply with the following requirements:

(1) A letter from the Governor or Tribal leader or their designee is required specifying the extenuating circumstances requiring the funding advance for the grant;

(2) The maximum advance request may not be more than \$25,000 for each State or Indian tribe;

(3) Recipients of advance funding must obligate those funds within 3 months of receipt;

(4) Advances including interest will be deducted from the initial reimbursement to the State or Indian tribe; and

(5) The State or Indian tribe will have its allocation of current grant funds reduced and will not be permitted to apply for future grant funds until the advance is covered by a re-

## 49 CFR Ch. I (10–1–06 Edition)

quest for reimbursement. For example, if \$25,000 is advanced for personnel costs, this advance would be deducted from the initial reimbursement in the year the advance was made.

(d) To be allowable, costs must be eligible, reasonable, necessary, and allocable to the approved project in accordance with OMB Circular A-87 and included in the grant award. Costs incurred prior to the award of any grant are not allowable. Recipient agencies are responsible for obtaining audits in accordance with the Single Audit Act of 1984 (31 U.S.C. 7501), 49 CFR part 90, and OMB Circular A-128. Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial and compliance audits. The Associate Administrator may audit a recipient agency at any time.

[Amdt. 110-1, 57 FR 43067, Sept. 17, 1992, as amended by 66 FR 45377, Aug. 28, 2001]

### § 110.80 Procurement.

Project managers shall use procurement procedures and practices which reflect applicable State laws and regulations and Federal requirements as specified in 49 CFR 18.36.

### § 110.90 Grant monitoring, reports, and records retention.

(a) *Grant monitoring.* Project managers are responsible for managing the day-to-day operations of grant, subgrant and contract-supported activities. Project managers must monitor performance of supported activities to assure compliance with applicable Federal requirements and achievement of performance goals. Monitoring must cover each program, function, activity, or task covered by the grant. Monitoring and reporting requirements for planning and training are contained in this part; general grant reporting requirements are specified in 49 CFR 18.40.

(b) *Reports.* (1) The project manager shall submit a performance report at the completion of an activity for which reimbursement is being requested or with a request to amend the grant. The final performance report is due 90 days after the expiration or termination of the grant.

(2) Project managers shall submit an original and two copies of all performance reports. Performance reports for planning and training must include comparison of actual accomplishments to the stated goals and objectives established for the performance period, and the reasons for not achieving those goals and objectives, if applicable.

(3) Project managers shall report developments or events that occur between the required performance reporting dates which have significant impact upon the planning and training activity such as:

(i) Problems, delays, or adverse conditions which will impair the ability to meet the objective of the grant; and

(ii) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

(4) Financial reporting, except as provided in §110.70 and 49 CFR 18.41, shall be supplied quarterly using Standard Form 270, Request for Advance or Reimbursement, to report the status of funds. The project manager shall report separately on planning and training.

(c) *Records retention.* In accordance with 49 CFR 18.42, all financial and programmatic records, supporting documents, statistical records, training materials, and other documents generated under a grant shall be maintained by the project manager for three years from the date the project manager submits the final financial status report (SF 269) or Request for Advance or Reimbursement (SF 270). The project manager shall designate a repository and single-point of contact for planning and for training, or both, for these purposes. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

#### § 110.100 Enforcement.

If a recipient agency fails to comply with any term of an award (whether stated in a Federal statute or regula-

tion, an assurance, a State plan or application, a notice of award, or elsewhere) a noncompliance action may be taken as specified in 40 CFR 18.43. The recipient agency may appeal any such actions as specified in 49 CFR part 18. Costs incurred by the recipient agency during a suspension or after termination of an award are not allowable unless the Associate Administrator authorizes it in writing. Grant awards may be terminated in whole or in part with the consent of the recipient at any agreed upon effective date, or by the recipient upon written notification.

[Amdt. 110-1, 57 FR 43067, Sept. 17, 1992, as amended by 66 FR 45377, Aug. 28, 2001]

#### § 110.110 After-grant requirements.

The Associate Administrator will close out the award upon determination that all applicable administrative actions and all required work of the grant are complete in accordance with subpart D of 49 CFR part 18. The project manager must submit all financial, performance, and other reports required as a condition of the grant, within 90 days after the expiration or termination of the grant. This time frame may be extended by the Associate Administrator for Hazardous Materials Safety for cause.

[Amdt. 110-1, 57 FR 43067, Sept. 17, 1992, as amended by 66 FR 45377, Aug. 28, 2001]

#### § 110.120 Deviation from this part.

Recipient agencies may request a deviation from the non-statutory provisions of this part. The Associate Administrator will respond to such requests in writing. If appropriate, the decision will be included in the grant agreement. Request for deviations from part 110 must be submitted to: Grants Manager, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590-0001.

[Amdt. 110-1, 57 FR 43067, Sept. 17, 1992, as amended by Amdt. 110-3, 59 FR 49132, Sept. 26, 1994; 66 FR 45377, Aug. 28, 2001]

#### § 110.130 Disputes.

Disputes should be resolved at the lowest level possible, beginning with the project manager and the project officer. If an agreement cannot be