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13 CFR Ch. I (1-1-07 Edition)

(4) Budget revisions and fund reallocations exceeding the limit established by applicable administrative regulations or OMB Circulars, either individually or in the aggregate (*see* paragraphs (c)(1) and (c)(2) of this section);

(5) Any proposed sole-source or one-bid contracts exceeding the limits established by applicable regulations or OMB Circulars; and

(6) The carryover from one budget period to the next budget period of unobligated, unexpended SBA funds allocable under the Cooperative Agreement to nonrecurring, nonseverable bona fide needs of the SBDC network as provided in applicable OMB Circulars and the annual Program Announcement.

(c) *Revisions which do not require amendments to the Cooperative Agreement*—(1) *Budget revisions*. Any budget revision, except those which are covered by paragraph (b)(4) of this section, Budget revisions require approval of the SBA Project Officer and the AA/SBDCs as prescribed by applicable OMB Circulars or 13 CFR 143.30.

(2) *Reallocation of funds*. Reallocation of funds must be conducted in accordance with applicable OMB Circulars or 13 CFR 143.30. Additional guidance on this matter may be included in the annual Program Announcement.

§ 130.630 Dispute resolution procedures.

(a) *Financial Disputes*. (1) A recipient organization wishing to resolve a financial Dispute formally must submit a written statement describing the subject of the Dispute, together with any relevant documents or other evidence bearing on the Dispute, to the Grants Management Specialist, with copies to the Project Officer. The Grants Management Specialist shall respond in writing to the recipient organization within 30 calendar days of receipt of the descriptive statement.

(2) If the recipient organization receives an unfavorable decision from the Grants Management Specialist, it may file an appeal with the AA/SBDCs within 30 calendar days of issuance of the unfavorable decision. The AA/SBDCs shall respond in writing to the recipient organization within 15 calendar days of receipt of the appeal.

(3) If the recipient organization receives an unfavorable decision from the AA/SBDCs, it may make a final appeal to the SBA Grants and Cooperative Agreements Appeals Committee (the “Committee”) within 30 calendar days of the date of issuance of the AA/SBDCs’ written decision. Copies of the appeal shall also be sent to the Grants Management Specialist and the Project Officer.

(4) Appeals must be in writing. Formal briefs and other technical forms of pleading are not required. Requests for a hearing will not be granted unless there are material facts substantially in dispute. Appeals must contain at least the following:

- (i) Name and address of the recipient organization;
- (ii) The SBA field office;
- (iii) The Cooperative Agreement;
- (iv) A statement of the grounds for appeal, with reasons why the appeal should be sustained;
- (v) The specific relief desired on appeal; and
- (vi) If a hearing is requested, a statement of the material facts which are substantially in dispute.

(5) The AA/SBDCs or the Committee may request from the SBDC or the District Office additional information or documentation at any stage in the proceedings.

(6) If a request for a hearing is granted, the Committee will provide the recipient organization with written instructions, and will afford the parties an opportunity to present their positions to the Committee.

(7) The Committee will reach a decision on the merits of the appeal within 30 days of the hearing date.

(8) The Chairperson, with advice from the Office of General Counsel, shall prepare and transmit a written final decision to the recipient organization with copies to the Grants Management Specialist and the Project Officer.

(9) *Expedited Dispute appeal process*. By an affirmative vote constituting a majority of its total membership, the Committee may shorten response times to attain final resolution of a Dispute before the issuance date of a new Cooperative Agreement. At any time within 120 days of the end of the budget period, the recipient organization may

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submit a written request to use an expedited process. If a Dispute affects refunding, the Committee must meet to consider the matter prior to the end of the budget period, provided that the recipient organization has supplied the Committee with all requested documentation.

(b) *Programmatic (non-financial) Disputes.* (1) If a programmatic Dispute is not resolved at the SBA District Office level, the recipient organization may request its submission to the next SBA administrative level having authority to review such matter. The Project Officer shall refer the Dispute in writing, including comments of the SBDC Director, within 15 calendar days of receipt of the request.

(2) If the programmatic Dispute is not resolved at an intermediate SBA administrative level within 15 calendar days of receipt thereof, it shall be forwarded, in writing, to the AA/SBDCs for final resolution. All comments of the SBDC Director must be included in any package forwarded to the AA/SBDCs.

(3) The AA/SBDCs shall transmit a final, written decision to the recipient organization, the SBDC Director, the SBA Project Officer and other appropriate SBA field office personnel within 30 calendar days of receipt of such documentation, unless an extension of time is mutually agreed upon by the recipient organization and the AA/SBDCs.

§ 130.700 Suspension, termination and non-renewal.

(a) *General.* After SBA has entered into a Cooperative Agreement with a recipient organization, it shall not suspend, terminate or fail to renew the agreement unless SBA gives the recipient organization written notice setting forth the reasons and affording the recipient organization an opportunity for a hearing. Subject to this requirement and the provisions of § 130.700(c) regarding non-renewal procedures for non-performance, the applicable general procedures for suspension and termination are contained in 13 CFR 143.43 and 143.44, and in OMB Circular A-110, Attachment L.

(b) *Causes.* Causes which may lead to suspension, termination, or failure to

renew include non-performance, poor performance, unwillingness to implement changes to improve performance, or any of the following reasons:

(1) Disregard or material violation of these regulations;

(2) A willful or material failure to perform under the Cooperative Agreement or under these regulations;

(3) Conduct reflecting a lack of business integrity or honesty;

(4) A conflict of interest causing real or perceived detriment to a small business concern, a contractor, the SBDC or SBA;

(5) Improper use of Federal funds;

(6) Failure of a Lead Center or its subcenters to consent to audits or examination or to maintain required documents or records;

(7) Failure of the SBDC Director to work at the SBDC Lead Center on a full-time basis;

(8) Failure promptly to suspend or terminate the employment of an SBDC Director, subcenter Director or other key employee upon receipt of knowledge by the recipient organization and/or SBA that such individual is engaging in or has engaged in conduct resulting in a criminal conviction or civil judgment which would cause the public to question the SBDC's business integrity, taking into consideration such factors as the magnitude, repetitiveness, harm caused and remoteness in time of the activity or activities underlying the conviction or judgment.

(9) Violation of the SBDC's standards of conduct as specified in these rules and as established by the SBDC pursuant to these rules; or

(10) Any other cause not otherwise specified which materially and adversely affects the operation or integrity of an SBDC or the SBDC program.

(c) *Non-Renewal Procedure.* (1) Subject to § 130.700(a), when an SBA District Director believes there is sufficient evidence of SBDC nonperformance, poor performance or unwillingness to implement changes to improve performance, under the terms of the Cooperative Agreement or these regulations, the District Director shall notify the SBDC Director and any other appropriate official of the recipient organization of an intention not to approve its renewal application.