

**§ 23.51 Grant carry-over authority.**

Unless restricted by appropriation, and contingent upon satisfactory program evaluations from the appropriate area or agency office for an existing program, grantees are authorized to carry over unliquidated grant funds which remain at the end of a budget period. Such funds may be carried over for a maximum period of two years beyond the initial grant funding period and must be utilized only for the intent, purpose and scope of the original grant. These carry-over grant funds shall not be reprogrammed into other appropriation activities or subactivities. Funds carried over into another fiscal year will be added to the grantee's new fiscal year funding amount.

**§ 23.52 Grant suspension.**

(a) When a grantee has materially failed to comply and remains out of compliance with the terms and conditions of the grant, the grants officer may, after reasonable notice to the grantee and the provision of requested technical assistance, suspend the grant. The notice preceding the suspension shall include the effective date of the suspension, the corrective measures necessary for reinstatement of the grant and, if there is no immediate threat to safety, a reasonable timeframe for corrective action prior to actual suspension.

(b) No obligation incurred by the grantee during the period of suspension shall be allowable under the suspended grant, except that the grants officer may at his/her discretion allow necessary and proper costs which the grantee could not reasonably avoid during the period of suspension if such costs would otherwise be allowable under the applicable cost principles.

(c) Appropriate adjustments to the payments under the suspended grant will be made either by withholding the payments or by not allowing the grantee credit for disbursements which the grantee may make in liquidation of unauthorized obligations the grantee incurs during the period of suspension.

(d) Suspension shall remain in effect until the grantee has taken corrective action to the satisfaction of the grants officer, or given assurances satisfactory to the grants officer that correc-

tive action will be taken, or until the grants officer cancels the grant.

**§ 23.53 Cancellation.**

(a) The grants officer may cancel any grant, in whole or in part, at any time before the date of completion whenever it is determined that the grantee has:

(1) Materially failed to comply with the terms and conditions of the grant;

(2) Violated the rights as specified in § 23.49 or endangered the health, safety, or welfare of any person; or

(3) Been grossly negligent in, or has mismanaged the handling or use of funds provided under the grant.

(b) When it appears that cancellation of the grant will become necessary, the grants officer shall promptly notify the grantee in writing of this possibility. This written notice shall advise the grantee of the reason for the possible cancellation and the corrective action necessary to avoid cancellation. The grants officer shall also offer, and shall provide, if requested by the grantee, any technical assistance which may be required to effect the corrective action. The grantee shall have 60 days in which to effect this corrective action before the grants officer provides notice of intent to cancel the grant as provided for in paragraph (c) of this section.

(c) Upon deciding to cancel for cause, the grants officer shall promptly notify the grantee in writing of that decision, the reason for the cancellation, and the effective date. The Area Director or his/her designated official shall also provide a hearing for the grantee before cancellation. However, the grants officer may immediately cancel the grant, upon notice to the grantee, if the grants officer determines that continuance of the grant poses an immediate threat to safety. In this event, the Area Director or his/her designated official shall provide a hearing for the grantee within 10 days of the cancellation.

(d) The hearing referred to in paragraph (c) of this section shall be conducted as follows:

(1) The grantee affected shall be notified, in writing, at least 10 days before the hearing. The notice should give the date, time, place, and purpose of the hearing.

(2) A written record of the hearing shall be made. The record shall include written statements submitted at the hearing or within five days following the hearing.

### Subpart F—Appeals

#### § 23.61 Appeals from decision or action by Agency Superintendent, Area Director or Grants Officer.

A grantee or prospective applicant may appeal any decision made or action taken by the Agency Superintendent, Area Director, or grants officer under subpart C or E of this part. Such an appeal shall be made to the Assistant Secretary who shall consider the appeal in accordance with 25 CFR 2.20 (c) through (e). Appeal procedures shall be as set out in part 2 of this chapter.

#### § 23.62 Appeals from decision or action by Area Director under subpart D.

A grantee or applicant may appeal any decision made or action taken by the Area Director under subpart D that is alleged to be in violation of the U.S. Constitution, Federal statutes, or the regulations of this part. These appeals shall be filed with the Interior Board of Indian Appeals in accordance with 25 CFR 2.4 (e); 43 CFR 4.310 through 4.318 and 43 CFR 4.330 through 4.340. However, an applicant may not appeal a score assigned to its application or the amount of grant funds awarded.

#### § 23.63 Appeals from inaction of official.

A person or persons whose interests are adversely affected, or whose ability to protect such interests is impeded by the failure of an official to act on a request to the official, may make the official's inaction the subject of an appeal under part 2 of this chapter.

### Subpart G—Administrative Provisions

#### § 23.71 Recordkeeping and information availability.

(a)(1) Any state court entering a final decree or adoptive order for any Indian child shall provide the Secretary or his/her designee within 30 days a copy of

said decree or order, together with any information necessary to show:

(i) The Indian child's name, birthdate and tribal affiliation, pursuant to 25 U.S.C. 1951;

(ii) Names and addresses of the biological parents and the adoptive parents; and

(iii) Identity of any agency having relevant information relating to said adoptive placement.

(2) To assure and maintain confidentiality where the biological parent(s) have by affidavit requested that their identity remain confidential, a copy of such affidavit shall be provided to the Secretary or his/her designee. Information provided pursuant to 25 U.S.C. 1951(a) is not subject to the Freedom of Information Act (5 U.S.C. 552), as amended. The Secretary or his/her designee shall ensure that the confidentiality of such information is maintained. The address for transmittal of information required by 25 U.S.C. 1951(a) is: Chief, Division of Social Services, Bureau of Indian Affairs, 1849 C Street, NW., Mail Stop 310-SIB, Washington, DC 20240. The envelope containing all such information should be marked "Confidential." This address shall be sent to the highest court of appeal, the Attorney General and the Governor of each state. In some states, a state agency has been designated to be repository for all state court adoption information. Where such a system is operative, that agency may assume reporting responsibilities for the purposes of the Act.

(b) The Division of Social Services, Bureau of Indian Affairs, is authorized to receive all information and to maintain a central file on all state Indian adoptions. This file shall be confidential and only designated persons shall have access to it. Upon the request of an adopted Indian individual over the age of 18, the adoptive or foster parents of an Indian child, or an Indian tribe, the Division of Social Services shall disclose such information as may be necessary for purposes of tribal enrollment or determining any rights or benefits associated with tribal membership, except the names of the biological parents where an affidavit of confidentiality has been filed, to those persons eligible under the Act to request such