

§ 74.60

the Freedom of Information Act, 5 U.S.C. 552, if the records had belonged to the HHS awarding agency.

(g) Paragraphs (g)(1) and (g)(2) of this section apply to the following types of documents, and their supporting records: Indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If the recipient submits to the Federal Government or the subrecipient submits to the recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts on the date of such submission.

(2) If the recipient is not required to submit to the Federal Government or the subrecipient is not required to submit to the recipient the proposal, plan, or other computation for negotiation purposes, then the 3-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

TERMINATION AND ENFORCEMENT

§ 74.60 Purpose of termination and enforcement.

Sections 74.61 and 74.62 set forth uniform suspension, termination and enforcement procedures.

§ 74.61 Termination.

(a) Awards may be terminated in whole or in part only if paragraph (a) (1), (2), or (3) of this section applies.

(1) By the HHS awarding agency, if a recipient materially fails to comply with the terms and conditions of an award.

(2) By the HHS awarding agency 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.

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(3) By the recipient upon sending to the HHS awarding agency 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 the HHS awarding agency determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, it may terminate the award in its entirety.

(b) If costs are allowed under an award, the responsibilities of the recipient referred to in § 74.71(a), 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.

§ 74.62 Enforcement.

(a) If a recipient materially fails to comply with the terms and conditions of an award, whether stated in a Federal statute or regulation, an assurance, an application, or a notice of award, the HHS awarding agency may, in addition to imposing any of the special conditions outlined in § 74.14, take one or more of the following actions, as appropriate in the circumstances:

(1) Temporarily withhold cash payments pending correction of the deficiency by the recipient or more severe enforcement action by the HHS awarding agency.

(2) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

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

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

(5) Take any other remedies that may be legally available.

(b) In taking an enforcement action, the HHS awarding agency will provide the recipient or subrecipient an opportunity for such hearing, appeal, or other administrative proceeding to which the recipient or subrecipient is entitled under any statute or regulation applicable to the action. (See also 45 CFR parts 16 and 95.)

(c) Costs to a recipient resulting from obligations incurred by the recipient