

## § 74.73

applicable, are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

### § 74.73 Collection of amounts due.

(a) Any funds paid to a recipient in excess of the amount to which the recipient is finally determined to be entitled under the terms and conditions of the award constitute a debt to the Federal Government. If not paid within a reasonable period after the demand for payment, the HHS awarding agency may reduce the debt by paragraph (a) (1), (2), or (3) of this section:

(1) Making an administrative offset against other requests for reimbursements.

(2) Withholding advance payments otherwise due the recipient.

(3) Taking other action permitted by statute.

(b) Except as otherwise provided by law, HHS awarding agencies will charge interest on an overdue debt in accordance with 4 CFR ch. II, "Federal Claims Collection Standards." (See 45 CFR part 30.)

## Subpart E—Special Provisions for Awards to Commercial Organizations

SOURCE: 59 FR 43760, Aug. 25, 1994, unless otherwise noted.

### § 74.80 Scope of subpart.

This subpart contains provisions that apply to awards to commercial organizations. These provisions are in addition to other applicable provisions of this part, or they make exceptions from other provisions of this part for awards to commercial organizations.

### § 74.81 Prohibition against profit.

Except for awards under the Small Business Innovation Research (SBIR) and Small Business Technology Transfer Research (STTR) programs (15 U.S.C. 638), no HHS funds may be paid as profit to any recipient even if the recipient is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs.

[59 FR 43760, Aug. 25, 1994, as amended at 61 FR 11747, Mar. 22, 1996]

## 45 CFR Subtitle A (10–1–07 Edition)

### § 74.82 Program income.

The additional costs alternative described in § 74.24(b)(1) may not be applied to program income earned by a commercial organization except in the SBIR and STTR programs.

### § 74.83 Effect on intangible property.

Data sharing (FOIA) requirements as set forth in § 74.36(d)(1) do not apply to commercial organizations.

[65 FR 14418, Mar. 16, 2000]

## Subpart F—Disputes

SOURCE: 59 FR 43760, Aug. 25, 1994, unless otherwise noted.

### § 74.90 Final decisions in disputes.

(a) HHS attempts to promptly issue final decisions in disputes and in other matters affecting the interests of recipients. However, final decisions adverse to the recipient are not issued until it is clear that the matter cannot be resolved through further exchange of information and views.

(b) Under various HHS statutes or regulations, recipients have the right to appeal from, or to have a hearing on, certain final decisions by HHS awarding agencies. (See, for example, subpart D of 42 CFR part 50, and 45 CFR part 16). Paragraphs (c) and (d) of this section set forth the standards HHS expects its member agencies to meet in issuing a final decision covered by any of the statutes or regulations.

(c) The decision may be brief but must contain:

(1) A complete statement of the background and basis of the awarding agency's decision, including reference to the pertinent statutes, regulations, or other governing documents; and

(2) Enough information to enable the recipient to understand the issues and the position of the HHS awarding agency.

(d) The following or similar language (consistent with the terminology of the applicable statutes or regulations) should appear at the end of the decision: "This is the final decision of the (title of grants officer or other official responsible for the decision). It shall be the final decision of the Department unless, within 30 days after receiving