

§ 3015.116 Construction and non-construction work under the same grant, subgrant, or cooperative agreement.

When a grant, subgrant, or cooperative agreement provides support for both construction and nonconstruction work, the awarding agency may require prior approval for any fund or budget transfers between the two types of work.

Subpart N—Grant and Subgrant Closeout, Suspension and Termination

§ 3015.120 Closeout.

(a) Each grant or subgrant shall be closed out as soon as possible after expiration or notice of termination.

(b) The following shall apply when closing out USDA grants:

(1) Upon request from the recipient, any allowable reimbursable cost not covered by previous payments shall be promptly paid by USDA.

(2) Any unobligated balance of cash advanced to the recipient shall be immediately refunded to the awarding agency or managed in accordance with USDA instructions.

(3) Within a maximum period of 90 days following the date of expiration or termination of a grant, all financial performance and related reports required by the terms of the agreement shall be submitted to the awarding agency by the recipient. USDA reserves the option of extending the due date for any report and may waive any report that it considers to be unnecessary.

(4) The provisions formally expressed and agreed to within the grant arrangement shall dictate the settlement of any upward or downward adjustments of the Federal share of costs.

(c)(1) A grant closeout shall not affect the retention period for, or Federal rights of access to, grant records. (See Subpart D of this part).

(2) The closeout of a grant does not affect the recipient's responsibilities regarding property under Subpart R of this part or with respect to any program income the recipient is still accountable for under Subpart F of this part.

(3) Final audits (See Attachment L, Circular A-102 and Attachment K of Circular A-110) are not a required part of the grant or subgrant closeout procedures. Normally, a final audit should not be needed unless there are problems with a grant or subgrant that require audit attention. If a USDA agency considers a final audit to be necessary, it shall contact the OIG Region within which the recipient or subrecipient is located and inform OIG of the situation. OIG shall be responsible for assuring that necessary final audits are performed and for any necessary coordination with other Federal cognizant audit agencies, recipients or State and local auditors. Audits performed in accordance with Subpart I may serve as final audits providing such audits meet the needs of the requesting agency.

(4) If a grant is closed out without audit, the awarding agency reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

§ 3015.121 Amounts payable to the Federal government.

The following outstanding sums for each grant shall be considered as a debt or debts owed by the recipient to the Federal government. They shall, if not paid upon demand, be subject to recovery by the awarding agency from the recipient or its successor or assignees by set off or other action provided by law:

(a) Any grant funds paid to the recipient by the Federal government which exceed the amount the recipient is finally determined to be entitled to under the provisions of the grant award;

(b) Any interest or other investment income earned on advances of grant funds which is due the Federal government;

(c) Any royalties or other special classes of program income which, under the provisions of the grant award, are required to be returned to the Federal government;

(d) Any amount the Federal government is entitled to under Subpart R of this part; and

§ 3015.122

(e) Under the provisions of the grant award, any other amounts finally determined to be due to the Federal government.

§ 3015.122 Violation of terms.

(a) Whenever it is determined that the recipient has materially failed to comply with the provisions of the grant award, the awarding agency may suspend or terminate, in accordance with §§ 3015.123 and 3015.124, any grant in whole, or in part, at any time before the date of completion, or take such other remedies as may be legally available and appropriate.

(b) A grant may be suspended or terminated in the current period for failure to submit a report still due from a prior period. This action is applicable when a project or program is supported over two or more funding periods.

§ 3015.123 Suspension.

(a) When a recipient has materially failed to comply with the provisions prescribed in the grant agreement, the awarding agency may, after reasonable notice to the recipient, suspend the grant in whole or in part. A suspension notice shall be issued by the awarding agency stating the reasons for the suspension, any corrective action required of the recipient, and the effective date. Suspension may go into effect immediately if the awarding agency deems it necessary to protect its interest and if a delayed effective date would be unreasonable considering the awarding agency's responsibilities to protect the Federal government's interest. Suspension shall remain in effect until the recipient has taken corrective action satisfactory to the awarding agency, or given evidence that such corrective action will be taken, or until the awarding agency terminates the grant.

(b) Unless specifically authorized by the awarding agency in the notice of suspension or subsequently expressed in an amendment to it, new obligations incurred by the recipient during the suspension period shall not be allowed. Necessary and otherwise allowable costs which the recipient could not reasonably avoid during the suspension period will be allowed, if they result from obligations properly incurred by the recipient before the effective date

7 CFR Ch. XXX (1-1-05 Edition)

of the suspension and not in anticipation of suspension or termination. If the awarding agency approves, third party in-kind contributions applicable to the suspension period may be allowed in satisfaction of cost-sharing or matching requirements.

(c) During the suspension period, appropriate adjustments to payments under the suspended grant will be made by not giving credit to the recipient for disbursements made in payment of unauthorized obligations incurred during the suspension period or by withholding subsequent payments.

§ 3015.124 Termination.

(a) *Termination for cause.* The awarding agency may terminate any grant or other agreement in whole, or in part, at any time before the date of expiration, whenever it is determined that the recipient has materially failed to comply with the conditions of the agreement. The awarding agency shall promptly notify the recipient in writing of the determination and reasons for the termination, together with the effective date.

(b) *Termination by mutual agreement.* Except as provided in paragraph (a) of this section, grants may be terminated in whole, or in part, only as follows:

(1) When the awarding agency and recipient agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

(2) By written notification by the recipient to the awarding agency setting forth the reasons for termination, the effective date, and in the case of partial termination, the portion to be terminated. In the case of a partial termination, if the awarding agency decides that the remaining portion of the grant will not accomplish the purposes for which the grant was made, the awarding agency may terminate the award in its entirety under either paragraph (a) or paragraph (b)(1) of this section.

(c) *Termination settlements.* Upon termination of a grant, the recipient shall not incur any new obligations for the terminated portion of the agreement after the effective date, and shall cancel as many outstanding obligations as