

CHAPTER 1-170 OVERDUE REPORTS

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1-170-00 What does this chapter do?

This chapter explains what we will do if we do not receive the required reports for an assistance agreement you received from us, the Office of Surface Mining Reclamation and Enforcement (OSM).

1-170-10 What is our policy on reporting requirements?

- A. The reporting requirement is a key condition of your grant or cooperative agreement.
1. We sent you a list of the reports and due dates required under your agreement when we sent you the written award document for your assistance agreement.
 2. To see further information regarding report requirements for specific programs, please see chapter [4-230](#) for AML agreements; [5-230](#) for Regulatory program agreements, [6-230](#) for Watershed cooperative agreements, and [7-230](#) for Technical Studies agreements.
- B. While maintaining due concern for your rights and program needs, we must take vigorous, and effective action to obtain overdue reports.
- C. As a condition of all our assistance agreements, we will not approve any subsequent assistance awards or amendments to you unless we have received all overdue financial or performance reports. Only our Regional Director (RD) can approve exceptions to this policy.

1-170-20 What must you do to request an extension or waiver of a report?

- A. We may extend a report deadline only if you send us a written request with adequate justification before the scheduled due date. Your request must explain why you need the extension, and propose a new due date for the report. We will enter the revised due date into our grant tracking systems. We will file your request and our response in our official assistance agreement file.
- B. We may waive a required report only if you send us a written request with adequate justification before the scheduled due date. To waive a required report, we must be able to determine that we

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will accomplish the purposes for the report information in some other way. If we waive a reporting requirement, we will notify you in writing, and update our grant tracking system.

1-170-30 What will we do when a report is overdue?

- A. If we do not receive a report by the due date, we will contact you.
1. We will notify you that the due date has passed and we have not received the required report.
 2. We will remind you that failure to submit reports on time makes you noncompliant with the terms of the assistance agreement. Noncompliance may result in sanctions including withholding cash payments, disallowing current expenditures, suspending or terminating part or all of the current award, not awarding further grants for the program, or other legal remedies.
 3. We will ask you to send us the report immediately. We will negotiate with you a proposed extension of the due date not to exceed 30 calendar days.
- B. We must confirm all agreements about overdue reports in writing. Our confirmation will state the approved extended due date for the report. It will also remind you of the sanctions which we may impose for noncompliance if we do not receive either the report or an acceptable explanation by the new due date. We will then enter the revised due date in our grant tracking system. [Exhibit 1](#) of this chapter is sample confirmation document.

1-170-40 What further actions can we take if we still do not receive the required report?

- A. If we do not receive either the report or an acceptable explanation by the agreed-upon extended due date, we will issue a written warning to you stating that you are noncompliant with the reporting requirements of the assistance agreement. The notice will state that unless the required report(s) are received within the next 10 calendar days, we will make no further payments and the grant award will be suspended until all required reports are received, and that the suspension may be converted to a termination 30 days later. Our notice will also state that we will make no further grant awards until we receive all overdue reports. [Exhibit 2](#) of this chapter is a sample warning notice.
- B. If the report or an acceptable explanation is not received by the end of the 10 calendar day period cited in our notice, we will coordinate with our Assistant Directors for Finance and Administration (AD,FA) and for Program Support (AD,PS) to suspend the grant award and payments. We will withhold further grant awards until all delinquent reports have been received. Our Division of Financial Management (DFM) will ensure that no payments are made, and that the awarding office and AD,PS are informed of actions taken.

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- C. If the report or an acceptable explanation is not received by the end of 30 calendar days after the suspension, we will convert the suspension to a termination. See Chapter [2-270](#) for more information on enforcement and termination actions.

1-170-50 Do we have any alternatives to suspension or termination actions?

- A. Our RD may waive suspension or termination of a grant agreement for noncompliance with reporting requirements with a written determination that it is in the best interests of OSM to continue the program.
- B. We strongly encourage you to work with your awarding office before the end of the report extension period to ensure that the report is submitted, or an appropriate explanation is provided, and accepted, in order to avoid the suspension and termination provisions.

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EXHIBIT 1

Sample Confirmation of Extended Report Due Date

Dear _____:

This is to confirm our telephone conversation of _____. It outlines the agreement we reached for the submission of the following delinquent report(s):

Grant No.:

Report Description: *[Financial Report and/or Performance Report]*

Report Due for Period:

As you are aware, these reports were due to OSM on _____.

Acceptance of a grant or cooperative agreement award carries with it the obligation for proper and timely accountability, both programmatic and fiscal. Please be aware that failure to submit required reports in a timely manner makes your organization noncompliant. This may result in the imposition of sanctions including (a) withholding cash payments pending receipt of the required reports; (b) denying authority to commit Federal or matching funds for this program; (c) suspension or termination of part or all of this grant award; (d) withholding further awards for this program until the required reports are received; or other legal remedies.

In keeping with the understanding reached in our telephone conversation, we will expect to receive the overdue report(s) by _____.

If you are unable to meet the agreed deadline, it is imperative that you inform us as soon as possible of the reasons why you are unable to meet the deadline and when you will submit the report.

If you have any questions regarding this matter, or if I can be of assistance in expediting the submission of the report, please do not hesitate to contact me at ()_____.

Sincerely,

Awarding Office Official

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EXHIBIT 2

Sample Warning Notice to Recipient

Dear _____:

The following grant reports are seriously overdue:

Grant No:

Report Description: *[Financial Report and/or Performance Report]*

Report Period:

This letter is to warn you that your organization is noncompliant with the reporting requirements of the assistance agreement. The reports were originally due on _____. My previous letter dated _____ confirmed our agreement by telephone to extend the due date to _____. The reports have not been received in this office.

Unless the reports listed above are received by _____ *[within the next 10 calendar days]*, OSM will make no further payments and the grant award will be suspended until all required reports are received. The grant suspension may be converted to a termination on _____ *[30 days after the suspension]*. No further grant awards will be made by OSM until all overdue reports have been received.

Should you or your staff have any questions regarding this matter, or if we can be of assistance in expediting receipt of the reports, please do not hesitate to contact me. If a site visit by me or my staff would be helpful, we would be pleased to come.

Sincerely,

Awarding Office Official

cc: DFM