

PART 6

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6.1 FAO MONITORING RESPONSIBILITIES

POLICY: The FAO is responsible for monitoring the award. This monitoring is generally done through the PTR.

PROCEDURE: In addition to the PTR's monitoring activities, the FAO may also review project reports to determine whether the recipient's actions are consistent with the award, or whether remedial measures are necessary. Such measures may include revision or termination of the award, requesting refund of excess funds, collecting interest and modifying payment type.

6.2 BUDGET CHANGES

POLICY: The FAO shall review requests for budget revisions that exceed 10% or increase project funding.

PROCEDURE: A recipient's request for a budget revision shall contain current and proposed expenditures and an explanation for the need and impact of the proposed revisions. Upon receipt, the FAO shall promptly provide the PTR with a copy of the request. The FAO and the PTR should review the proposal and determine whether or not to approve it. The FAO shall notify the recipient within 30 days after the date of receipt of the request as to whether the proposed budget revision is approved or disapproved.

6.3 AUDIT REQUIREMENTS

POLICY: BPA may audit, or cause to be audited by the responsible agency, awards or subawards to individuals or for-profit organizations whenever, and in whatever degree, deemed necessary. Although BPA must rely on the audits arranged by the recipient to the maximum extent practical, other audits may be conducted by BPA if circumstances warrant. The FAO is responsible for determining if an additional audit is necessary, and for requesting it.

INFORMATION: An audit is used by BPA to evaluate whether financial resources are being used as directed by the award. Recipients are responsible for arranging audits of their own activities, at least once every two years. OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations, requires Federal agencies to rely on the results of these audits to the extent possible. As part of the government-wide audit process, OMB has

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established audit cognizance. In most cases the FAO's will review audits conducted by Federal or non-Federal auditors outside BPA, and cognizant agencies will be responsible for audit resolution, consulting with BPA as necessary.

6.4 NONCOMPLIANCE

PROCEDURE:

(a) When the FAO determines that a recipient has not complied with any term or condition of the award, the FAO shall first attempt to resolve the issue informally. If that is unsuccessful, the FAO should send the recipient a notice that sets forth--

- (1) The basis for the determination of noncompliance;
- (2) The corrective actions required and the date by which they must be taken; and
- (3) The actions BPA may take if the recipient does not comply within the time specified in the notice.

(b) If the recipient does not satisfactorily comply with the requirements imposed by the FAO under paragraph (a), the FAO should suspend or terminate the award.

6.5 SUSPENSION AND TERMINATION

POLICY: BPA may suspend or terminate an award based on noncompliance with the terms or conditions of the award. All suspension and termination decisions and actions are made by the FAO.

DEFINITIONS:

(a) "Suspension" means a temporary suspension of financial assistance to the recipient pending corrective action by the recipient or pending a decision to terminate the agreement. During a suspension no new funds will be made available to the recipient and project, and authority to commit funds identified in the budget is temporarily withdrawn.

(b) "Termination" means a permanent withdrawal of the recipient's authority to spend previously awarded funds.

6.5.1 Suspension

PROCEDURE:

(a) Unless the FAO and the recipient agree otherwise, a period of suspension generally should not exceed 90 days.

(b) The FAO may cancel the suspension at any time, up to and including the date of expiration of the period of suspension if the recipient takes satisfactory corrective action.

(c) If the suspension expires without further FAO action, the recipient may resume the suspended activities or project.

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(d) As of the effective date of the suspension, BPA shall withhold further payments and shall not allow the recipient to new obligations during the period of suspension unless such costs are authorized in the notice of suspension or in a subsequent letter.

(e) The FAO may consult with Legal Counsel and Risk Management regarding potential legal and financial risks resulting from suspension or termination of the financial assistance award.

6.5.2 Notification Requirements

PROCEDURE: The FAO will provide a written notice at least 10 days before the effective date of a suspension or termination of an award. A copy of the notice to suspend or terminate will be sent to Disbursement Operations to stop payments. Such notice shall include, as appropriate--

(a) The basis for the suspension or termination;

(b) The effective date of the BPA action;

(c) A description of the activities affected by the action;

(d) Instructions concerning which costs, if any, that shall be allowable during the period of suspension, or instructions concerning allowable termination costs;

(1) Generally, the recipient shall incur no new obligations after the effective date of the termination of an award, or portion thereof.

(2) The recipient shall cancel as many outstanding obligations as possible.

(3) BPA shall allow full credit to the recipient for the BPA share of obligations properly incurred by the recipient but which cannot be canceled after the effective date of the termination.

(e) Instructions concerning required final reports and other closeout actions for terminated awards;

(f) A statement of the recipient's limited right to appeal a termination for cause to the Head of Contracting Activity; and

(g) The signature of the FAO and the date signed.

6.5.3 Termination by Mutual Agreement

INFORMATION: Either BPA or the recipient may initiate termination of an award (or portion thereof) by mutual agreement. Voluntary termination by mutual agreement may be desirable because the recipient has lost a principal investigator, events or circumstances did not occur as expected, or the work is not producing a successful project.

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6.6 DISPUTES AND APPEALS

POLICY: BPA will attempt to informally resolve any dispute over the award or administration of a financial assistance award. The FAO shall issue a written determination concerning any dispute which is not resolved informally.

PROCEDURE: FAO determinations shall contain a summary of the dispute, the reasons for the determination, and information on the right to appeal the dispute to the BPA HCA. The HCA is responsible for final resolution of the dispute.