

agency shall retain responsibility for overall administration of that grant, including use of funds and reporting.

(c) The Director shall sign two copies of the agreement and transmit them either by certified mail, return receipt requested, or by hand delivery, to the agency for countersignature. The grant constitutes an obligation of Federal funds at the time the Director signs the agreement. The agency shall have 20 calendar days from the date of the Director's signature to execute the agreement in order to accept its terms and conditions. Unless an extension of time is approved by the Director, failure to execute the agreement within 20 calendar days shall result in an immediate deobligation of the total Federal grant amount.

(d) Although the funds are obligated when the Director signs the agreement, for any expenditure requiring compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.), funds may not be used by the State/Indian tribe until all actions necessary to ensure compliance with NEPA are taken.

(e) The agency shall submit a completed Form OSM-76 (Abandoned Mine Land Reclamation Problem Area Description) showing proposed funding for any planned non-emergency project work to the applicable OSM field office before it may use funds for construction activities.

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14. Section 886.17 is revised to read as follows:

§ 886.17 Grant amendments.

(a) Grant amendments. (1) A grant amendment is a written alteration of the terms or conditions of the grant agreement, whether accomplished on the initiative of the agency or OSM. All procedures for grant amendments shall conform to those in 43 CFR part 12, subpart C.

(2) The agency shall promptly notify the Director, or the Director shall promptly notify the agency, in writing of events or proposed changes that may require a grant amendment. The agency shall notify the Director in advance of changes that will result in an extension of the grant period or require additional funds, or when the agency plans to make a budget transfer from administrative costs to project costs or vice versa.

(b) OSM shall either approve or disapprove the amendment within 30 days of its receipt.

15. Section 886.18 is amended by revising paragraphs (a)(2) and (a)(3); by redesignating paragraphs (b) and (c) as

paragraphs (c) as (d) respectively; by adding a new paragraph (b); and by revising the newly redesignated paragraphs (c) and (d) to read as follows:

§ 886.18 Grant reduction, suspension, and termination.

(a) * * *

(2) If an agency fails to obligate moneys distributed and granted within three years from the date of grant award, or within an extension granted under § 886.13 or § 886.17, OSM may reduce the grant in accordance with § 872.11 (b)(1) and (b)(2) of this subchapter.

(3) If an agency fails to implement, enforce, or maintain an approved State regulatory program or any part thereof and, as a result, the administration and enforcement grant provided under part 735 of this chapter is terminated, OSM shall terminate the grant awarded under this part. This paragraph does not apply to Indian tribes who receive reclamation funds without having an approved regulatory program.

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(b) *Remedies for noncompliance.* If a grantee or subgrantee materially fails to comply with any term of an award, whether stated in a Federal statute or regulation, an assurance in a State plan or application, a notice of award, or elsewhere, OSM may 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 grantee or subgrantee;

(2) Disallow (that is, deny both use of funds and 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 for the grantee's or subgrantee's program;

(4) Withhold further grant awards for the program; or

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

(c) *Grant reduction, suspension, and termination procedures.* (1) The OSM official delegated grant signature authority shall give the agency at least 30 days written notice of intent to reduce, suspend, or terminate a grant. OSM must send this notice by certified mail, return receipt requested. OSM shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) OSM shall afford the agency opportunity for consultation and remedial action before reducing or terminating a grant.

(3) The OSM official delegated grant signature authority shall notify the agency of the termination, suspension,

or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination, the agency shall refund or credit to the Fund that remaining portion of the grant money not encumbered. However, the agency shall retain any portion of the grant that is required to meet contractual commitments made before the effective date of termination.

(5) Upon receiving notification of OSM's intent to terminate the grant, the agency shall not make any new commitments without OSM's approval.

(6) OSM may allow termination costs as determined by applicable Federal cost principles listed in Office of Management and Budget Circular A-87.

(7) Either OSM or the agency may terminate or reduce a grant if both parties agree that continuing the program would not produce beneficial results commensurate with the further expenditure of funds. Such a termination for convenience shall be handled as an amendment and shall be signed by the OSM official delegated grant signature authority.

(d) *Appeals.* (1) Within 30 days of OSM's decision to reduce, suspend, or terminate a grant, the agency may appeal the decision to the Director.

(i) The agency shall include in the appeal a statement of the decision being appealed and the facts that the agency believes justify a reversal or modification of the decision.

(ii) The Director shall decide the appeal within 30 days of receipt.

(2) Within 30 days of the Director's decision to reduce, suspend, or terminate a grant, the agency may appeal the decision to the Secretary.

(i) The agency shall include in the appeal a statement of the decision being appealed and the facts that the agency believes justify a reversal or modification of the decision.

(ii) The Secretary shall act upon the appeal within 30 days of receipt.

16. Section 886.19 is revised to read as follows:

§ 886.19 Audit.

The agency shall arrange for an independent audit pursuant to guidance provided by the General Accounting Office and the Office of Management and Budget.

17. Section 886.20 is revised to read as follows:

§ 886.20 Administrative procedures.

The agency shall follow administrative procedures governing accounting, payment, property, and related requirements contained in 43 CFR part 12, subpart C and use the property form specified by OSM and