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(b) *Termination for Cause.* Termination for cause can occur whenever there is a substantial or persistent violation of the governing rules and regulations or failure to comply with the grant terms and conditions. The following factors will be considered for termination:

(1) Poor performance and inability to meet Federal standards related to such debt collection requirements as:

(i) Failure to respond to demand letters from DOL for repayment of debts within the stated timeframe;

(ii) Failure to comply with an approved repayment agreement revealed through monitoring or subsequent audit;

(iii) Failure to take necessary corrective action to improve underperformance and to plan for more effective subsequent operations.

(2) Nonperformance related to such requirements as:

(i) Failure to submit required quarterly financial reports for two successive periods within 45 days after they are due;

(ii) Failure to submit required quarterly performance reports for two successive periods within 45 days after they are due;

(iii) Failure to develop a plan of action to correct deficiencies identified in an audit report or by an onsite monitoring review.

(3) Nonperformance related to such requirements as:

(i) Failure to comply with formal corrective action after due notice;

(ii) Failure to comply with the requirements of the Act related to a grievance procedure and other requirements;

(iii) Failure to submit a required modification within 10 days to adjust the grant award due to reduction in available funds, reductions due to debt collection action, etc.

(c) In addition, the Department, by written notice, may terminate a grant in whole or in part in the event of a reduction in the funds available or a change in provisions for JTPA title IV, section 401 programs by reason of congressional action.

**20 CFR Ch. V (4-1-11 Edition)**

**Subpart D—Administrative Standards and Procedures**

**§ 632.31 General.**

(a) This subpart describes requirements relating to the administration of grants by Native American grantees. Administrative requirements found in this subpart apply to all programs under the Act unless stated to the contrary for any specific program.

(b) As referenced in this subpart, the requirements set forth in 41 CFR parts 29-70, “Administrative requirements governing all grants and agreements by which Department of Labor agencies award funds to State and local governments, Indian and Native American entities, public and private institutions of higher education and hospitals, and other quasi-public and private non-profit organizations,” shall apply to grants under JTPA. Whenever the provisions of 41 CFR part 29-70 conflict with the provisions of part 632, the provisions of part 632 shall prevail.

(1) The requirements in 41 CFR 29-70.1 set forth the policies which apply to all basic grants and agreements.

(2) The requirements in 41 CFR 29-70.2 implement OMB Circular Nos. A-102 and A-110, and apply to all JTPA grants and agreements unless otherwise indicated in these regulations.

**§ 632.32 Financial management systems.**

(a) Each Native American grantee, subgrantee and contractor shall maintain a financial management system which will provide accurate, current and complete disclosure of the financial transactions under each grant, subgrant or contract activity, and will enable each Native American grantee, subgrantee or contractor to evaluate the effectiveness of program activities and meet the reporting requirements of this subpart.

(b) Each Native American grantee, subgrantee and contractor shall maintain its financial accounts so that the reports required by the Department may be prepared therefrom.

(c) To be acceptable for audit under this subpart, a Financial Status Report shall be:

(1) Current as of the cut-off date of the audit;

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(2) Taken directly from or linked by worksheet to the Native American grantee's books of original entry; and

(3) Traceable to source documentation of the unit transaction.

### § 632.33 Audits.

(a) *General.* The audit provisions of 41 CFR part 29-70 shall apply to Native American grantees. Until unified or single audit procedures are promulgated and implemented for nonprofit entities, the Office of the Inspector General shall be responsible for arranging and conducting audits of Native American grantees that are not Indian tribal governments.

(b) *Audit reports.* Upon receipt of a final audit report the Inspector General will promptly transmit the audit report to the grantee for a comment period not to exceed 30 days.

(c) *Initial Determination.* After the conclusion of the comment period for audits provided the grantee, the Grant Officer shall make an initial determination of the allowability of questioned costs or activities. Such determination should be based on the Act, regulations grants or other agreements under the Act.

(d) *Informal resolution.* Except as provided in section 164(f) of the Act, the Grant Officer shall not revoke a grant, in whole or in part, nor institute corrective action or sanctions against a grantee without first providing the grantee with an opportunity to informally resolve those matters contained in the Grant Officer's initial determination. If the matters are informally resolved the Grant Officer shall notify the parties in writing of the nature of the resolution, which shall constitute the final determination, and may close the file.

(e) *Final determination.* The Grant Officer shall, not later than 180 days from the time the Inspector General issues the final approved audit report, issue a final determination that:

(1) Indicates that efforts to informally resolve matters contained in the initial determination pursuant to paragraph (a) of the section have been unsuccessful.

(2) Lists those matters upon which the parties continue to disagree.

(3) Lists any modifications to the factual findings and conclusions set forth in the initial determination.

(4) Lists any sanctions, and required corrective actions, including any other alteration or modification of the plan, grant, agreement or program intended by the Grant Officer.

(5) Sets forth any appeal rights.

### § 632.34 Program income.

(a) *General.* The provisions of 41 CFR 29-70.205, program income and interest earned, shall apply to Native American grantee programs.

(b) Income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of DOL financial assistance for that program.

(c) *Special provisions.* Income earned as a result of activities of JTPA participants by an income generating enterprise, which is owned by an Indian tribe, band or group or an Alaskan native entity, and the profits of which are used exclusively for governmental, charitable, educational, civic, social or other similar purposes, may be retained by such enterprise and used in the same manner as other income of such enterprise.

### § 632.35 Native American grantee contracts and subgrants.

(a) Contracts may be entered into between the Native American grantee and any party, public or private, for purposes set forth in the JTPA.

(b) Subgrants may be entered into between the Native American grantee and units of State and local general government, Indian tribal government, public agencies or nonprofit organizations.

(c) The Native American grantee is responsible for the development, approval and operation of all contracts and subgrants and shall require that its contractors and subgrantees adhere to the requirements of the Act, the regulations under the Act, and other applicable law. It shall also require contractors and subgrantees to maintain effective control and accountability over all funds, property and other assets covered by the contract or subgrant.