

## Surface Mining Reclamation and Enforcement, Interior

## § 725.18

the revised application as an original application.

[42 FR 62704, Dec. 13, 1977, as amended at 47 FR 38490, Aug. 31, 1982]

### § 725.16 Grant agreement.

(a) If a Director or his authorized designee approves an agency's grant application, the Director or his authorized designee shall prepare a grant agreement which includes—

(1) The approved scope of the program to be covered by the grant, including functions to be accomplished by other agencies.

(2) The base program budget and estimated costs in excess of the base program.

(3) The amount of the grant.

(4) Commencement and completion dates for the segment of the program covered by this grant and for major phases of the program to be completed during the grant period.

(5) Permissible transfers of funds to other State agencies.

(b) The Director or his authorized designee shall limit grants under this part to the additional costs to an agency for administering and enforcing the initial regulatory program.

(c) The Director or his authorized designee may permit the agency to assign functions and funds to other State agencies. The Director or his authorized designee shall require the grantee agency to retain responsibility for overall administration of the grant, including use of funds, accomplishment of functions and reporting.

(d) Except as may be provided by the grant agreement, costs may not be incurred prior to the execution of the agreement.

(e) The Director or his authorized designee shall transmit four copies of the grant agreement, by certified mail, return receipt requested, to the agency for signature. The agency shall execute the grant agreement and return all copies within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Director or his authorized designee.

(f) The Director or his authorized designee shall sign the grant agreement upon its return from the agency and return one copy to the agency. The grant is effective and constitutes an

obligation of Federal funds in the amount and for the purposes stated in the grant agreement at the time the Director or his authorized designee signs the agreement.

(g) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or to enter into any grant amendment, including grant increases to cover cost overruns.

### § 725.17 Grant amendments.

(a) A grant amendment is a written alteration to the grant amount, grant terms or conditions, budget or period, or other administrative, technical, or financial agreement whether accomplished on the initiative of the agency or the Director or his authorized designee or by mutual action of the agency and the Director or his authorized designee.

(b) The agency shall promptly notify the Director or his authorized designee in writing of events or proposed changes which require a grant amendment, such as:

(1) Rebudgeting;

(2) Changes which may affect the approved scope or objective of a program; or

(3) Changes which may increase or substantially decrease the total cost of a program.

(c) The Director or his authorized designee shall approve or disapprove each proposed amendment within 30 days of receipt, or as soon thereafter as possible, and shall notify the agency in writing of the approval or disapproval of the amendment.

(d) The date the Director or his authorized designee signs the grant amendment establishes the effective date of the action. If no time period is specified in the grant amendment then the amendment applies to the entire grant period.

[42 FR 62704, Dec. 13, 1977, as amended at 47 FR 38490, Aug. 31, 1982]

### § 725.18 Grant reduction and termination.

(a) *Conditions for reduction or termination.* (1) If an agency fails to carry out its responsibilities pursuant to § 710.4(b) and part 720 of this chapter

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the Director or his authorized designee shall reduce or terminate the grant.

(2) If an agency violates the terms of a grant agreement, the Director or his authorized designee may reduce or terminate the grant.

(3) If an agency fails to enforce the initial performance standards of this chapter the Director or his authorized designee may reduce or terminate the grant.

(4) If an agency is not in compliance with the following nondiscrimination provisions, the Director or his authorized designee shall terminate the grant—

(i) Title VI of the Civil Rights Act of 1964 (78 Stat. 252), Nondiscrimination in Federally Assisted Programs, which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance, and the implementing regulations at 43 CFR 17.

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex or national origin, and the implementing regulations at 41 CFR 60.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, Nondiscrimination with Respect to the Handicapped in Federally Assisted Programs.

(5) If an agency fails to enforce the financial interest provisions of part 705 of this chapter the Director shall terminate the grant.

(6) If an agency fails to submit reports required by this part or parts 705 and 720 of this chapter the Director shall reduce or terminate the grant.

(b) *Grant reduction and termination procedures.* (1) The Director or his authorized designee shall give at least 10 days written notice to the agency by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Director or his authorized designee shall include in the notice the reasons for the proposed ac-

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tion and the proposed effective date of the action.

(2) The Director or his authorized designee shall afford the agency opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The Director or his authorized designee shall notify the agency of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the agency shall refund or credit to the United States that portion of the grant money paid or owed to the agency and allocated to the terminated portion of the grant. However any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the agency.

(5) Upon termination, the agency shall reduce the amount of outstanding commitments insofar as possible and report to the Director or his authorized designee the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate, the agency shall not make any new commitments without the approval of the Director or his authorized designee.

(7) The Director or his authorized designee may allow termination costs as determined by applicable Federal cost principles listed in Federal management Circular 74-4.

(c) *Appeals.* (1) An Agency may appeal the Director or his authorized designee's decision to reduce or terminate a grant to the Director within 30 days of the Director or his authorized designee's decision.

(2) An Agency shall include in an appeal:

(i) The decision being appealed, and

(ii) The facts which the Agency believes justify a reversal or modification of the decision.

(3) The Director shall act on appeals within 30 days of their receipt, or as soon thereafter as possible.

### § 725.19 Audit.

The agency shall arrange for an independent audit no less frequently than once every two years, pursuant to the requirements of Office of Management