

(c) *Abatement agreement.* Where the Office and the corporate permittee or individual have agreed in writing on a plan for the abatement of or compliance with the unabated order, an individual named in a notice of proposed individual civil penalty assessment may postpone payment until receiving either a final order from the Office stating that the penalty is due on the date of such final order, or written notice that abatement or compliance is satisfactory and the penalty has been withdrawn.

(d) *Delinquent payment.* Following the expiration of 30 days after the issuance of a final order assessing an individual civil penalty, any delinquent penalty shall be subject to interest at the rate established by the U.S. Department of the Treasury for late charges on late payments to the Federal Government. The Treasury current value of funds rate is published by the Fiscal Service in the notices section of the FEDERAL REGISTER and on Treasury's Web site. Interest on unpaid penalties will run from the date payment first was due until the date of payment. Failure to pay overdue penalties may result in one or more of the actions specified in § 870.23(a) through (f) of this chapter. Delinquent penalties are subject to late payment penalties specified in § 870.21(c) of this chapter and processing and handling charges specified in § 870.21(d) of this chapter.

[53 FR 3674, Feb. 8, 1988, as amended at 73 FR 67630, Nov. 14, 2008]

PART 725—REIMBURSEMENTS TO STATES

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AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95-87, 91 Stat. 445 (30 U.S.C. 1201).

SOURCE: 42 FR 62704, Dec. 13, 1977, unless otherwise noted.

§ 725.1 Scope.

This part sets forth policies and procedures for reimbursements to States for costs of enforcing the initial performance standards set forth in this chapter.

§ 725.2 Objectives.

The objectives of assistance under this part are:

(a) To assist the States in meeting the increased costs of administering the initial performance standards.

(b) To encourage the States to build strong reclamation and enforcement programs.

§ 725.3 Authority.

Section 502(e)(4) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) authorizes the Secretary to reimburse States for costs of enforcing the performance standards of the initial regulatory program.

§ 725.4 Responsibility.

(a) The Director shall administer the grant program for reimbursement to States for costs of enforcing performance standards during the initial regulatory program.

(b) The Director or his authorized designee shall receive, review and approve grant applications under this part.

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

§ 725.5 Definitions.

As used in this part, the following terms have the specified meanings:

Agency means the State agency designated by the Governor to receive and administer grants under this part.

Base program means the State program to regulate surface coal mining prior to August 3, 1977.

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§ 725.10 Information collection.

The information collection requirements contained in 30 CFR 725.15, 725.23(a) and 725.24 have fewer than 10 respondents per year, they are exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and do not require clearance by OMB.

[47 FR 38490, Aug. 31, 1982]

§ 725.11 Eligibility.

(a) *Assumption of responsibility.* To be eligible for a grant for reimbursements for the cost of enforcing performance standards during the initial regulatory program the State shall assume responsibility for enforcement of the initial regulatory program including the specific responsibilities identified under §710.4(b) and part 720 of this chapter.

(b) *Designation of State agency.* In order to receive a grant for reimbursements for costs of enforcing performance standards during the initial regulatory program, the Governor of a State shall designate in writing one agency to submit grant applications, receive and administer grants under this part.

(c) *Periods covered by reimbursement grants.* An agency may apply for a reimbursement grant for any period during the initial regulatory program and for a reasonable start-up period beginning no later than August 3, 1977.

§ 725.12 Coverage of grants.

An agency may use grant money under this part to cover costs in excess of the base program for administering and enforcing the initial regulatory program. The Director or his authorized designee shall determine the base program from the State fiscal year budget in effect on August 3, 1977. Costs of the following items are eligible for reimbursement—

(a) Incorporation of the initial performance standards of this chapter in new permits issued by the State.

(b) Modification of existing permits to include the initial performance standards of this chapter.

(c) Additional inspections required to enforce the initial performance standards of this chapter.

(d) Inspections which are more detailed than inspections before the initial regulatory program.

(e) Responses to complaints related to the initial performance standards of this chapter.

(f) Enforcement actions required to secure compliance with the initial performance standards of this chapter.

(g) Additional administrative activities and supporting costs related to hiring additional inspectors and other personnel, revising permits, conducting inspections, preparing, copying and submitting reports required by part 720, and submitting applications for reimbursement grants under this part.

(h) Additional equipment required for inspection or support of inspections, as follows:

(1) An agency may charge any required item of equipment to the grant on a use bases in accordance with the principles set forth in Federal Management Circular 74-4, "Cost principles applicable to grants and contracts with State and local governments" (34 CFR part 255).

(2) An agency may purchase equipment, with grant funds where cost recovery through use charges is prohibited, made impractical or more costly than purchase by existing State laws or procedures.

[42 FR 62704, Dec. 13, 1977, as amended at 45 FR 34880, May 23, 1980]

§ 725.13 Amount of grants.

The Office shall pay up to 100 percent of the costs to the agency in excess of the base program for administering and enforcing the performance standards during the initial regulatory program.

§ 725.14 Grant periods.

The Director or his authorized designee shall normally approve a grant for a period of one year or less. OSM shall fund a program that extends over more than one year by consecutive annual grants or amendments to the existing grant.

[47 FR 38490, Aug. 31, 1982]

§ 725.15 Grant application procedures.

(a) The agency may submit its application (three copies) for a grant to the Director or his authorized designee at

least sixty days prior to the beginning of the intended grant period, or as soon thereafter as possible.

(b) The agency shall use the application forms and procedures applicable to non-construction and/or construction programs specified by OSM in accordance with Office of Management and Budget Circular No. A-102, "Uniform administrative requirements for grants-in-aid to State and local governments" (42 FR 45828). No preapplication is required. Each application must include the following:

(1) Part I, Application Form coversheet, SF 424.

(2) Part II, Project Approval Information.

(i) For non-construction grants use Form OSM-50A, Project Approval Information—Section A.

(ii) For construction grants use Form OSM-50A, Project Approval Information—Section A and Form OSM-50B, Project Approval Information—Section B.

(3) Part III, Budget Information.

(i) For non-construction grants use Form OSM-47, Budget Information Report, with a narrative explanation of computations.

(ii) For construction grants use Form OSM-48, Budget Information—Construction with a narrative explanation of computations.

(4) Part IV, Program Narrative Statement, Form OSM-51, providing the narrative for the goals to be achieved for both construction and non-construction grants.

(i) Form OSM-51 is supplemented by completion of column 5A of Forms OSM-51A and OSM-51B which reports the quantitative program management information of the Interim Regulatory grants.

(ii) Form OSM-51 is supplemented by completion of Column 5A of Form OSM-51C which reports the quantitative program management information of the Small Operator Program Administration and Operational grants.

(5) Part V, The standard assurance for non-construction activities or construction activities as specified in Office of Management and Budget Circular No. A-102, Attachment M.

(c) The agency shall include sufficient information to enable the Director or his authorized designee to determine the agency's base program and increases over the base program eligible for reimbursement grants. The agency shall include the following information, plus any other relevant data:

(1) A summary of the State permit, inspection and enforcement program prior to the addition of the requirements of the Act of 1977, including—

(i) Permit requirements and the system for issuing permits;

(ii) Mining-and-reclamation plan requirements;

(iii) Coverage and frequency of inspections;

(iv) Actions required to enforce mining and reclamation requirements;

(v) The number and nature of responses to complaints; and

(vi) Other regulatory activities and related administrative functions affected by the performance standards of the initial regulatory program of this chapter.

(2) A statement of the number of employees and annual budget required to carry out functions described in paragraph (c)(1) of this section.

(3) A copy of all State constitutional, statutory and regulatory provisions applicable to the enforcement and administration of the initial regulatory program.

(4) An opinion of the State's chief legal officer as to whether and to what extent the State is authorized to enforce and administer the initial regulatory program.

(5) A statement of the additional work required to enforce the initial regulatory program for each of the agency activities described in paragraph (c)(1) of this section.

(6) The additional staff and funds required for the increased workload described in paragraph (c)(5) of this section.

(7) The number and types of major equipment (equipment with a unit acquisition cost of \$500 or more and having a life of more than two years) which the agency plans to purchase with grant funds.

(d) The Director or his authorized designee may waive the resubmission of information required by paragraphs

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(c) (1), (2), (3) and (4) of this section in applications for the following grants.

(e) The Director or his authorized designee shall notify the agency within thirty days after the receipt of a complete application, or as soon thereafter as possible, whether it is or is not approved. If the application is not approved, the Director or his authorized designee shall set forth in writing the reasons it is not approved, and may propose modifications if appropriate. The agency may resubmit the application within thirty days. The Director or his authorized designee shall process 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

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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 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 action 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:

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(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 and Budget Circular No. A-102, Attachment P. The audits will be performed in accordance with the "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" and the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs" published by the Comptroller General of the United States and guidance provided by the cognizant Federal audit agency.

[48 FR 38490, Aug. 31, 1983]

§ 725.20 Administrative procedures.

The Agency shall follow administrative procedures governing accounting, payment property, and related requirements contained in Office of Management and Budget Circular No. A-102.

§ 725.21 Allowable costs.

(a) The Director or his authorized designee shall determine costs which may be reimbursed according to Office of Management and Budget Circular No. A-87.

(b) Costs must be in conformity with any limitations conditions or exclusions set forth in the grant agreement or this part.

(c) Costs must be allocated to the grant to the extent of benefit properly attributable to the period covered by the grant.

(d) Costs must not be allocated to or included as a cost of any other federally assisted program.

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

§ 725.22 Financial management.

(a) The agency shall account for grant funds in accordance with the requirements of Office of Management and Budget Circular A-102. An agency

shall use generally accepted accounting principles and practices, consistently applied. Accounting for grant funds must be accurate and current.

(b) The agency shall adequately safeguard all funds, property, and other assets and shall assure that they are used solely for authorized purposes.

(c) The agency shall provide a comparison of actual amounts spent with budgeted amounts for each grant.

(d) When advances are made by a letter-of-credit method, the agency shall make drawdowns from the U.S. Treasury through its commercial bank as closely as possible to the time of making the disbursements.

(e) The agency shall support accounting records by source documentation.

(f) The agency shall design a systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 725.23 Reports.

(a) The agency shall, for each grant made under this part, submit semi-annually to the Director or his authorized designee a Financial Status Report, SF 269, for non-construction grant activities in accordance with Office of Management and Budget Circular No. A-102, Attachment H and OSM requirements. This report shall be accompanied by a Performance Report, Form OSM-51, comparing actual accomplishments to the goals established for the period, prepared according to Attachment I of OMB Circular No. A-102 and OSM requirements. The agency shall also submit semiannually a separate Outlay Report and Request for Reimbursement for Construction Programs, SF 271, and accompanying narrative performance report comparing actual accomplishments with planned goals on grant funded construction activities.

(b) The Director or his authorized designee shall require through the grant agreement that semiannual reports also describe the relationship of financial information to performance and productivity data, including unit cost information. This quantitative information will be reported on Forms OSM-51A and OSM-51B or OSM-51C, Quantitative Program Management Information, as applicable.

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(c) The Director or his authorized designee shall require that when a grant is closed out in accordance with Attachment L to Office of Management and Budget Circular No. A-102 the following actions are taken:

(1) The grantee shall account for any property acquired with grant funds or received from the Government in accordance with the provisions of Attachment N to Office of Management and Budget Circular No. A-102. This may be accomplished by the submission of the Report of Government Property, Form OSM-60.

(2) The grantee shall submit a final financial report and thus release OSM from obligations under each grant or cooperative agreement that is being closed out.

[47 FR 38491, Aug. 31, 1982]

§ 725.24 Records.

(a) The agency shall maintain complete records in accordance with Office of Management and Budget Circular No. A-102. This includes books, records, documents, maps, and other evidence and accounting procedures and practices, sufficient to reflect properly—

(1) The amount, receipt, and disposition by the agency of all assistance received for the program.

(2) The total costs of the program, including all direct and indirect costs of whatever nature incurred for the per-

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formance of the program for which the grant has been awarded.

(b) Subgrantees and contractors, including contractors for professional services, shall maintain books, documents, papers, maps, and records which are pertinent to a specific grant award.

(c) The agency's records and the records of its subgrantees and contractors, including professional services contracts, shall be subject at all reasonable times to inspection, reproduction, copying, and audit by the Office, the Department of the Interior, the Comptroller General of the United States, the Department of Labor, or any authorized representative.

(d) For completed or terminated grants, the agency, subgrantees and contractors shall preserve and make their records available to the Office, the Department of the Interior, the Comptroller General of the United States, Department of Labor, or any authorized representative pursuant to OMB Circular A-102.

§ 725.25 Disclosure of information.

All grant applications received by the Director or his authorized designee constitute agency records. As such, their release may be requested by any member of the public under the Freedom of Information Act (5 U.S.C. 552), and shall be disclosed unless exempt from disclosure under 5 U.S.C. 552(b).