

FEDERAL REGISTER: 47 FR 38486 (August 31, 1982)

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM)

30 CFR Parts 725 and 735

Procedures for Regulatory Program and Small Operator Assistance Program Financial Assistance

ACTION: Final rule.

SUMMARY: The Office of Surface Mining is amending 30 CFR Parts 725 and 735 which set forth the procedures for the submission, review, approval or disapproval, monitoring and reporting of financial assistance to the States for grants to implement the initial regulatory program, the permanent regulatory program and the Small Operator Assistance Program (SOAP). OSM is finalizing these revisions today in order to comply fully with directives of the Office of Management and Budget (OMB), to improve financial accountability of the expenditure of tax dollars, and to make modifications to improve the efficiency of the program based on experience over the past four years.

EFFECTIVE DATE: September 30, 1982.

FOR FURTHER INFORMATION CONTACT: Gene E. Krueger, Chief, Branch of Grants Management Program Operations and Inspection, Office of Surface Mining, Room 214, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343-5843.

SUPPLEMENTARY INFORMATION:

1. PUBLIC PARTICIPATION

On September 21, 1981, (46 FR 46744-46748) the Secretary proposed rules to amend 30 CFR 725 and 735 to revise existing regulations to be consistent with procedures specified in the OMB Circular No. A-102 on "Uniform administrative requirements for grants-in-aid to States and local governments" and OMB's recommended practices. The proposed amendments to Parts 725 and 735 also reflect experience OSM has gained while administering grant programs during the past four years.

The grants assist States with development, administration and enforcement of State regulatory programs to implement the Surface Mining Control and Reclamation Act of 1977. These grants also support SOAP and cooperative agreements for State regulation of coal mining activities on Federal lands.

State comments were solicited on various changes to grant procedures at informal meetings held by OSM around the country during 1980 and 1981. Revisions suggested by the States were considered in drafting the proposed procedures.

Public comments were invited for 30 days ending October 21, 1981, and a public hearing was held in Washington, D.C. on October 13, 1981.

No testimony was offered at the public hearing. Five written comments were received and have been considered in preparing this final rule. Copies of all comments received are on file in: Administrative Record (SPA-07), Office of Surface Mining, U.S. Department of the Interior, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

2. BACKGROUND

On December 13, 1977, OSM published in the Federal Register (42 FR 62704-62710) its policies and procedures for providing financial assistance to States for enforcing the initial regulatory program, developing State program submissions, administering and enforcing State regulatory programs (including SOAP), and administering cooperative agreements for State regulation of surface coal mining and reclamation operations on Federal lands. Minor changes were made to these regulations on January 14, 1980 (45 FR 2804), and May 23, 1980 (45 FR 34879).

OSM has revised the previous grant application and reporting requirements and made several minor changes clarifying portions of the regulations. The previous regulations did not fully comply with OMB Circular No. A-102, "Uniform administrative requirements for grants-in-aid to State and local governments."

3. SCOPE OF RULE

The final rules revise the regulations to be consistent with the procedures specified in OMB's circular and with practices recommended by OMB. Also, in administering the grant programs over the past four years, OSM determined the need to revise certain regulations to clarify requirements or to improve OSM's ability to insure that grant funds are utilized for the authorized purposes. The final rules are substantially the same as proposed. Changes made are noted below in the discussion.

SECTION 725.4 - RESPONSIBILITY.

Sections 725.4(b) and 735.4(b) of the previous regulations delegated responsibility to the Regional Director for the review and approval of grant applications. As revised, these Sections provide that the "Director or his authorized designee" will be responsible for the review and approval of grants. Removal of the explicit reference to the "Regional Director" in these two Sections and elsewhere throughout Parts 725 and 735 is necessary as a result of OSM's reorganization which calls for the elimination of Regional Director positions. However, for as long as any of the regional offices remain in existence, the Regional Director shall be the "authorized designee" of the Director to receive, review and approve grants.

SECTION 725.10 - INFORMATION COLLECTION.

The Office of Management and Budget (OMB) approval of information collection and retention requirements in 30 CFR 725.15, 725.23(a) and 725.25 was identified in "notes" at the introduction to 30 CFR Part 725. OSM will delete these "notes" and codify the OMB approvals under new sections 10 in each of those Parts that contain information collection requirements. The information required by 30 CFR Part 725 will be used by OSM's Headquarters and State offices in administering, evaluating and auditing State reimbursement grants during the Initial Regulatory Program to ensure that the requirements of OMB Circular A-102 and the Surface Mining Control and Reclamation Act are met. The information required by 30 CFR Part 725 is mandatory.

SECTION 725.14 - GRANT PERIODS.

In the first sentence of this Section and in corresponding Sec. 735.17 the word "normally" has been inserted between the words "shall" and "approve." At the end of the second sentence the words "amendments to the existing grant" have been added. These revisions are in recognition of the occasional need to extend the grant period beyond one year. While OSM does not anticipate that deviation from the one year grant period will be necessary in many cases, situations may occur where an extension is warranted. For example, a State that has encountered unavoidable delays in preparing its application package for a continuation grant may need an extension of the existing grant period in order to avoid an interruption in its funding.

SECTION 725.15 - GRANT APPLICATION PROCEDURES.

Sections 725.15(a) and corresponding Sec. 735.18(a) have been revised by redefining the grant application submission deadline for the second and successive grants as "sixty days prior to the beginning of the intended grant period, or as soon thereafter as possible".

The previous language defined the application deadline as September 1 of each year. Based on experience, flexibility in application procedures is needed to permit the grant period to be defined by the expiration of the current grant rather than by a fixed point in time.

In Sec. 725.15(b) and in corresponding Sec. 735.18(b), the reference to the "short form application for non-construction programs" has been replaced with a reference to "application forms and procedures specified by OSM in accordance with Office of Management and Budget (OMB) Circular No. A-102, "Uniform administrative requirements for grants-in-aid to State and local governments." The short form application does not fully comply with OMB

requirements. Meetings were held by OSM to present the proposed application procedures to all States that would be affected. States were invited to comment on the proposals and revisions suggested by them were given consideration in drafting the material submitted to OMB for approval. Specific written guidance will be provided to States on the completion and use of the application forms. In addition, OSM will meet with interested States to explain further the forms.

The new forms will be applicable to the first grant application submitted by a State after the effective date of this rule.

OSM's revised grant application forms and procedures are a modification of those prescribed by OMB Circular No. A-102. The new application package (Standard Form 424, Application coversheet; OSM-50 A and B, Project Approval Information; OSM-47 or 48, Budget Information; OSM-51, Program Narrative Statement; and OSM-51 A, B, or C, Quantitative Program Management Information) supersedes that previously used to submit budget data and justify proposed expenditures. The primary difference is the requirement that applicants tie an agency's estimated costs for personnel, travel, equipment and other object classes to program functions (e.g. permitting, inspection and enforcement, and SOAP). OSM made the rule changes to comply with OMB requirements, to enable OSM to implement properly its management responsibilities, and to allocate grant funds more judiciously.

In the introductory paragraph of Section 725.15(c) and of corresponding Sections 735.18(c), and 735.18(d) the words "Part III of the standard application" have been deleted, for they refer to the short form application. As explained in the paragraph above, use of the short form will be discontinued.

Section 725.15(c)(7) and corresponding Section 735.18(d)(2) have been amended by inserting \$500 instead of \$1000. The previous regulation required the grant applicant to supply a breakdown of equipment with a unit acquisition cost of over \$1000 proposed to be purchased with grant funds. The change from \$1000 to \$500 was needed to comply fully with the requirements of OSM policy approved by OMB concerning the definition of nonexpendable personal property.

Section 725.15(d) provides for a discretionary waiver of the information requirements of paragraphs (c)(2), (c)(3) and (c)(4) of Section 725.15 in applications for second or third reimbursement grants. The final rule amends the previous regulations by inserting "(c)(1)" after the word "paragraphs" and before "(c)(2)." This insertion corrects an inadvertent omission in the drafting of the original rule. Also, in the revised rule "following grants" replaces "second and third grants." Several States have applied for their fourth reimbursement grant as court suits or other factors have delayed implementation of their permanent programs for periods longer than OSM anticipated when promulgating the original rule.

SECTION 725.17 - GRANT AMENDMENTS.

The introductory sentences of Section 725.17(b) and of corresponding Section 735.20(b) were amended by deletion of the words "by certified mail, return receipt requested." OSM determined that notification by States of proposed changes which require a grant amendment need not be sent by certified mail. The final revision is intended to eliminate an unnecessary expenditure of State funds.

Section 725.17(d) and corresponding Section 735.20(d) are reworded slightly to clarify the exact date an amendment becomes effective and the period of time for which it applies. OSM determined that the previous regulation was ambiguous.

SECTION 725.19 - AUDIT.

Section 725.19 is modified to require an agency to arrange for an independent audit no less frequently than once every two years. The previous regulation called for the U.S. Department of the Interior's Office of Audit and Investigation to arrange for audits as appropriate. The revision is needed to comply with the requirements of OMB's Circular No. A-102, Attachment P.

SECTION 725.21 - ALLOWABLE COSTS.

Section 725.21 and corresponding Section 735.24 have been changed to require that reimbursement costs be determined in accordance with Office of Management and Budget Circular No. A-87. OMB Circular A-87 replaces Federal Management Circular 74-4.

SECTION 725.23 - REPORTS.

Section 725.23 and corresponding Section 735.26 are modified by requiring grant recipients to report semi-annually rather than annually. In addition, language is added to require grantees to meet OSM reporting requirements as well as those specified in OMB Circular No. A-102. In the revised regulation it is stated that the Financial Status Report, Form SF 269, will continue to be used for non-construction activities. The outlay Report and Request for Reimbursement for Construction Programs, Form SF 271, will be used to report construction activities. To close out a grant a grantee may submit the Report of Government Property, Form OSM-60, to account for property acquired with grant funds or received from the Government in accordance with the provisions of Attachment N to OMB Circular No. A-102.

Meetings to present the proposals were held with all States that would be affected. Comments on the proposals were invited and revisions suggested by the States given consideration in drafting the new procedures. OSM's revised reporting requirements have been approved by OMB. The revised procedures call for the use of the Financial Status Report, Form SF-269, requiring grant recipients to provide a functional breakdown of expenditures. Accompanying the Financial Status Report, Form SF 269 will be a Performance Report, Form OSM-51, comparing the planned goals for the various budget functions with actual achievements. Attached to the Performance Report, Form OSM-51, will be the Quantitative Program Management Information, Forms OSM-51A and OSM-51B supporting expenditures reported for the Interim Regulatory and Administration and Enforcement grants. The Quantitative Program Management Information, Form OSM-51C, will be used to support expenditures reported for the Small Operator Assistance Program Administration and Operational grants. The final rules revise the previous regulations to be consistent with the procedures specified in OMB's circular and with practices recommended by OMB. In administering the grant programs over the past four years, OSM has determined that the current revisions are necessary to insure that grant funds are utilized for the authorized purposes. A standardization in the performance report will enable OSM to compare data from the various State agencies for systematic reporting to Congress.

Specific written guidance will be provided to the States on the completion and use of the reporting forms. In addition, OSM will meet with interested States to explain further the forms. The new forms will be applicable to the first grant application submitted by a State after the effective date of this rule.

SECTION 735.1 - SCOPE.

The revision at Section 735.1 consists of the addition of a new Paragraph (d) to clarify that the grant application and reporting procedures set forth at Part 735 apply to grants that fund the Small Operator Assistance Program (SOAP) described under Part 795. This revision is a cross-reference to Section 795.11(b) which prescribes that States that elect to administer the SOAP may submit a grant application for funding of the program under the procedures of Part 735.

SECTION 735.4 - RESPONSIBILITY.

See discussion above under Section 725.4(b).

SECTION 735.10 - INFORMATION COLLECTION.

The Office of Management and Budget (OMB) approval of information collection and retention requirements in existing 30 CFR 735.13 (a) and (b), 735.16 (e), 735.18, 735.26 and 735.27 was identified in "notes" at the introduction to 30 CFR Part 735. OSM will delete those "notes" and codify the OMB approvals under new sections 10 in each of those Parts that contain information collection requirements.

The information required by 30 CFR Part 735 will be used by OSM's Headquarters and State Offices in administering, evaluating and auditing its State reimbursement grants for Program Development, Administration and Enforcement and

SOAP to ensure that the requirements of OMB Circular No. A-102 and the Surface Mining Control and Reclamation Act are met. The information required by 30 CFR Part 735 is mandatory.

SECTION 735.13 - SUBMISSION OF ESTIMATED ANNUAL BUDGETS AND ALLOCATIONS OF FUNDS.

Paragraphs (a) and (b) of Section 735.13 are revised in order to required that an agency intending to apply for any type of a grant submit a projection of its program budget 18 months prior to the Federal fiscal year for which the grant will be requested. The previous regulation did not prescribe a deadline by which the budget projection must be submitted when an agency is intending to apply for a program development grant or a SOAP grant. The revision is needed in order to enable OSM to obtain comprehensive information on it budget needs for presentation to Congress.

Section 735.13(c)(2) addresses the allocation of funds in cases where insufficient monies have been appropriated to cover grant needs. The words "requested and approved" are inserted in two places to clarify that the formula for allocating available funds gives consideration only to those agencies' requested budgets that have been approved by OSM.

Section 735.13(c)(4) is amended by substituting the word "primarily" for "only" before the identification of the agencies to which OSM shall reallocate any funds not requested by agencies as of June 1. In most cases, funds will be reallocated to those agencies which have received less than the allowable percentage of their eligible costs; however, in some cases reallocation of funds to an agency in some other category may be appropriate such as to an agency that had not previously applied for a grant. This revision will provide OSM with the necessary discretion.

Section 735.13(c)(5) is modified by deleting the words "on July 1" following the phrase "Agencies which are allocated additional funds." The date is dropped because reallocation of funds may take place before as well as after July 1. Likewise, (c)(4) is modified to delete reference to a specific date.

SECTION 735.16 - SPECIAL PROVISION FOR STATES WITH COOPERATIVE AGREEMENTS.

Sections 735.16(e)(2) (i) and (ii) have been amended by deleting the references to "Part II" and "Part III" which refer to sections of current application forms that are no longer used. The language substituted for the deleted phrases provides a more general reference to the application format OSM will utilize. See discussion above under Section 725.15.

SECTION 735.17 - GRANT PERIODS.

See discussion above under Section 725.14. For Small Operator Assistance Program (SOAP) Operational grants, the grant period often will exceed one year. This is because the grants support contracts to laboratories and the work performed may extend over more than one year.

Section 735.18 Grant application procedures.

Section 735.18(a). See discussion above under Section 725.15(a).

Section 735.18(b). See discussion above under Section 725.15(b).

Section 735.18(c). See discussion above under Section 725.15(c).

Section 735.18(d). See discussion above under Section 725.15(c).

In Section 735.18(e) the words "within thirty days" are deleted following the phrase "The agency may resubmit the application." OSM made this revision in order to remove an unnecessary restriction on an agency's application for grant funds.

SECTION 735.20 - GRANT AMENDMENTS.

Section 735.20(b). See discussion above under Section 725.17(b).

Section 735.20(d). See discussion above under Section 725.17(d).

SECTION 735.22 - AUDIT.

This section is modified to comply with the audit requirements of Attachment P to OMB Circular No. A-102.

SECTION 735.24 - ALLOWABLE COSTS.

See discussion above under Section 725.21.

SECTION 735.26 - REPORTS.

See discussion above under Section 725.23.

4. ANALYSIS OF COMMENTS

The proposed rule was published in the Federal Register on September 21, 1981 (*46 FR 46744-46748*). Five sets of comments were received during the public comment period. Two commenters supported the proposed rule and had no further comments or objections. A third commenter requested further explanation and rationale for the proposed change. One commenter questioned the feasibility for implementation of several of the new requirements. Another commenter opposed the proposed revisions.

The State of Wyoming commented that it is inappropriate for OSM to reference proposed reporting procedures and grant applications in the regulations when these documents have not yet been approved by OMB. OSM had sent a copy of proposed grant application and reporting requirements to each State to be affected. Additionally, proposed procedures were presented at meetings held by OSM. State comment on the proposals was invited. Both verbal and written comments were considered when the application and reporting instructions were redrafted and presented to OMB. Approval of the forms has been received from OMB.

Wyoming also contended that the proposed regulations are inconsistent with the Administration's directive for regulatory relief from excessive, burdensome and counter-productive regulations. It further stated that the record gave no justification for the expanded audit and reporting requirements. These rules are written to support the Administration's policy of establishing cost-effective financial assistance programs. OSM does not consider a semi-annual report requirement to be excessively burdensome or costly for the States. Often grants given the States are for amounts in excess of \$1,000,000. The reporting and audit requirements are necessary to effectively manage a program of this magnitude. OSM must be able to compare State data and assess the relationship between financial assistance and program performance when reporting to Congress. The audit requirements are in accord with Attachment "P" to OMB Circular No. A-102 by which all grantor agencies and grantees must abide.

The State of Wyoming asked whether OSM will allow the State to charge audit costs to the Federal share. It also wanted to know if projected audit costs need to be included in the grant submittals. The States may include audit costs in grant requests.

Reimbursement will be made at the applicable cost sharing percentage. A State's next grant application should indicate that an audit will take place and will cover the costs incurred since the last audit. After such an audit is made, subsequent audits should be conducted every two years.

Several commenters expressed concern over the semi-annual reporting procedure and the requirement to assign costs to specific program functions. Particular concern was expressed over the staff time and cost to implement such a system. It was also questioned whether or not OSM's staffing capabilities, following the recent reorganization, were sufficient to process and use the required information.

In part, OSM's rule changes were made in order to be consistent with procedures specified in OMB's financial assistance circular and with practices recommended by OMB. OSM recognizes that resources required to implement the new procedures will vary from State to State depending on existing practices and organizational flexibility. A lesser burden will be imposed on agencies that already record expenditures under a grant by functional categories. OSM will

work with grant recipients to resolve problems on a case by case basis. It is our expectation that these reporting requirements will lead to a resolution of potential problems, such as resource shortages, during the grant period. OSM's staffing levels under the reorganization are sufficient to enable OSM to work with the States to address specific problems as they occur. With fewer personnel it is important for OSM to be able to identify possible problems before they become major items requiring additional staff time to resolve.

OSM needs semi-annual reports to furnish the Department, OMB and Congress required information on the status and accomplishments of a State's program. Information contained in these reports also will be used as a part of OSM's justification to Congress for funds to continue these programs.

Program progress reports need not be lengthy documents. They should provide basic information on progress toward accomplishment of program goals, and the identification of problem areas and/or need for grant revisions.

The State of Montana contends that splitting the budget into program functions is difficult in western States where there is a considerable amount of overlap of these functions. This overlap is due to the small size of the various programs. In States with staffs having overlapping responsibilities, the State may apportion time between the functional categories based on a ratio that it believes accurately reflects the amount of time spent on the different functions. This removes the need for overly detailed time and cost accounting records while satisfying the requirements of OMB Circular A-87 to account for expenditures.

Wyoming and Montana both expressed concern over the requirement in Section 735.13 to submit a projected program budget. The concerns regarded the degree of accuracy such a projection represents and the extent to which a State would be held accountable for submission of a grant request at the projected level. OSM uses information contained in budget estimates primarily as a tool to assist it in preparing requests to the Department and Congress for funds. The 18 month time period corresponds with the time frame OSM must use to formulate the budget request. OSM has never held a State strictly to the amount projected but must have a reasonable estimate. Figures are updated as new information is received and the applicable Federal fiscal year approaches.

Montana contends that OSM should set firm time limits on itself to respond to grant applications since it imposes application deadlines on the States in Sections 725.15 and 735.18. OSM will make every effort to process grants within 30 days of receipt of a complete grant application. If the grant cannot be processed within that period of time, the State will be advised of the reasons and the anticipated action date. OSM agrees that similar time frame procedures should be used by OSM and the States. An application is requested from the State at least 60 days prior to the beginning of the intended grant period to reduce the possibility of any lapse in funding. Sections 725.15(a) and 735.18(a) have been changed to request the submission by the State at least 60 days prior to the beginning of the grant period, or as soon thereafter as possible. This is similar to the standard applied to OSM in its processing of the grant application.

Montana also suggested that time frames be included for providing the State with a notification of letter of credit receipt after the grant is awarded. OSM acknowledges Montana's legitimate concern over the timely receipt of a notification of a letter of credit increase. OSM is currently implementing new systems to expedite this notification. It should be pointed out that the provision of prompt notification is beyond OSM's direct control since this action originates at the Bureau of Mines (BOM) Denver Finance Center. If an undue delay occurs on a particular grant action, OSM will work with the State to ensure that notification is provided.

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291.

The Department of the Interior has determined that this document will not have a significant economic effect on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis under Public Law 96-354.

The interim program rules, Part 725, are categorically excluded from the National Environmental Policy Act (NEPA) process according to section 8.4A(1) of Appendix 8 to the Department of the Interior Manual 516 DM 6 and are deemed not to be a major Federal action within the meaning of Section 102(2)(C) of NEPA according to Section 501(a) of SMCRA.

Part 735 of this rulemaking qualifies as a categorical exclusion under Appendix 1, Chapter 2, Part 516, of the Departmental Manual; thus, no environmental assessment has been conducted under the National Environmental Policy Act.

Primary authors of this document are Gene Krueger, Mary Tisdale and Jane Robinson, Division of State Program Assistance, Office of Surface Mining.

LIST OF SUBJECTS IN 30 CFR PARTS 725 AND 735

Coal mining, Grant programs natural resources, Law enforcement, Surface mining, Underground mining.

Dated: April 22, 1982.

Daniel N. Miller, Jr., Assistant Secretary, Energy and Minerals.

For the reasons set out in the preamble, Parts 725 and 735, of Title 30, Code of Federal Regulations is amended as follows:

PARTS 725 AND 735 [AMENDED]

1. Throughout Parts 725 and 735 all references to "Regional Director" are revised to read "Director or his authorized designee."

PART 725 -- REIMBURSEMENT TO STATES

2. In Part 725, the "Note" following the "Source note" is removed.

3. Paragraph (b) of Section 725.4 is revised to read as follows:

SECTION 725.4 - RESPONSIBILITY.

* * * * *

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

4. A new Section 725.10 is added to read as follows:

SECTION 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.

5. Section 725.14 is revised to read as follows:

SECTION 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.

6. In Section 725.15 Paragraphs (a), (b), the introductory text to (c), paragraphs (c)(7) and (d) are revised to read as follows:

SECTION 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: * * *

* * * * *

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

* * * * *

7. In Section 725.17 the introduction to paragraphs (b) and (d) are revised to read as follows:

SECTION 725.17 - GRANT AMENDMENTS.

* * * * *

(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 --

* * * * *

(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.

8. Section 725.19 is revised to read as follows:

SECTION 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.

SECTION 725.21 [AMENDED]

9. Section 725.21(a) is revised to read as follows:

(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.

* * * * *

10. Section 725.23 is revised to read as follows:

SECTION 725.23 REPORTS.

(a) The agency shall, for each grant made under this Part, submit semiannually 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.

(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.

PART 735 -- GRANTS FOR PROGRAM DEVELOPMENT AND ADMINISTRATION AND ENFORCEMENT

11. In Part 735, the "Note" following the "Source note" is removed.

12. In Section 735.1 paragraph (d) is added to read as follows:

SECTION 735.1 - SCOPE.

* * * * *

(d) Fund the Small Operator Assistance Program established under Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (*30 U.S.C. 1201*) and described in Part 795 of this Chapter.

13. Section 735.4 paragraph (b) is revised to read as follows:

SECTION 735.4 - RESPONSIBILITY.

* * * * *

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

14. A new Section 735.10 is added to read as follows:

SECTION 735.10 - INFORMATION COLLECTION.

(a) The information collection and retention requirements in 30 CFR 735.13 (a) and (b), 735.16(e), 735.18, 735.26 and 735.27 were approved by the Office of Management and Budget (OMB) under *44 U.S.C. 3507* and assigned clearance numbers for Sections 735.13 (a) and (b); SF 424, 1029-0016; OSM 50-A, 1029-0079; OSM 50-B, 1029-0078; OSM-47, 1029-0064; OSM-48, 1029-0070; OSM-51, 1029-0072; OSM-51A, 1029-0074; OSM-51B, 1029-0075; OSM-51C, 1029-0069; for Sections 735.16(e) and 735.18; SF 269, 1029-0017; OSM-51, 1029-0072; SF 271, 1029-0073; OSM-51A, 1029-0074; OSM-51B, 1029-0075; OSM-51C, 1029-0069; OSM-60, 1029-0076; OSM-62, 1029-0077; and OSM-63, 1029-0068; for Section 735.26; and Section 735.27 which was included in the above clearance numbers.

(b) The information required by 30 CFR Part 735 will be used by OSM's Headquarters and State offices in administering, evaluating and auditing its State reimbursement grants for program development and administration and enforcement to insure that the requirements of OMB Circular A-102 and the Surface Mining Control and Reclamation Act are met. The information required by 30 CFR Part 735 is mandatory.

15. In Section 735.13 paragraphs (a), (b), (c)(2), (c)(4) and (c)(5) are revised to read as follows:

SECTION 735.13 - SUBMISSION OF ESTIMATED ANNUAL BUDGETS AND ALLOCATION OF FUNDS.

(a) Budget summaries for Federal budget. For each fiscal year, the agency shall submit to the Director or his authorized designee 18 months prior to the Federal fiscal year for which the grant will be requested, a projection of its program budget (personnel and fringe benefits, travel, equipment and supplies, contractual, indirect charges, and other), including the costs of administering State-Federal cooperative agreements pursuant to Section 211.75 of this title, and any aircraft which the agency proposes to acquire. The Director will use these budget summaries in preparing the Federal budget estimates which he is required to submit.

(b) Updated budget summary. For each fiscal year, the agency shall submit to the Director or his authorized designee a current program budget (personnel and fringe benefits, travel, equipment and supplies, contractual, indirect charges, and other) three months prior to the beginning of the Federal fiscal year for which a grant will be requested.

(c) * * *

(2) If the funds available for grants are insufficient to cover the total grant needs, including cooperative agreement grants, the Director shall allocate the funds available according to the proportion of each requested and approved agency's budget to the total of all agencies' requested and approved budgets.

* * * * *

(4) The Director shall reallocate any funds which are not requested by agencies as of June 1 of that year. Such funds shall be allocated primarily to those agencies which have received less than the allowable percentage of their eligible costs.

(5) Agencies which are allocated such additional funds may submit new or revised grant applications for the additional amounts on or before August 15, of that year.

16. In Section 735.16 paragraphs (d), (e)(2)(i) and (e)(2)(ii) are revised to read as follows:

SECTION 735.16 - SPECIAL PROVISIONS FOR STATES WITH COOPERATIVE AGREEMENTS.

* * * * *

(d) Grant periods. The Director or his authorized designee shall normally approve a grant for a period of one year or less. Consecutive grants shall be awarded to fund approved programs.

(e) * * *

(2) * * *

(i) A separate budget summary for the costs of the cooperative agreement in the format specified by OSM; and

(ii) A separate narrative, in the format specified by OSM, describing the specific activities required by the cooperative agreement for the period for which the grant is requested.

* * * * *

17. Section 735.17 is revised to read as follows:

SECTION 735.17 - GRANT PERIODS.

The Director or his authorized designee shall normally approve a grant for a period of one year or less. Consecutive grants shall be awarded to fund approved programs.

18. In Section 735.18 revise paragraphs (a), (b), the introductory text of paragraph (c), paragraphs (d) and (e) to read as follows:

SECTION 735.18 - GRANT APPLICATION PROCEDURES.

(a) The agency shall submit its application (three copies) 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 specified by OSM in accordance with Office of Management and Budget Circular No. A-102. No pre-application 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 Administration and Enforcement 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 Assistance Program Administration and Operational grant.

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

(c) For program development grant applications, agencies shall include: * * *

* * * * *

(d) For administration and enforcement grants and cooperative agreement grants, agencies shall include:

(1) A description of the specific operations in the approved program which will be implemented during the period for which the grant is requested.

(2) A description and justification of any major equipment (equipment with a unit acquisition cost of \$500 or more and having a life of more than two years) which the agency proposes to acquire with the grant.

(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 for disapproval and may propose modifications if appropriate. The agency may resubmit the application. The Director or his authorized designee shall process the revised application as an original application.

19. In Section 735.20 the introduction to paragraph (b) and paragraph (d) are revised to read as follows:

SECTION 735.20 - GRANT AMENDMENTS.

* * * * *

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

* * * * *

(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.

20. Section 735.22 is revised to read as follows:

SECTION 735.22 - 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.

21. Section 735.24 is revised to read as follows:

SECTION 735.24 - ALLOWABLE COSTS.

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

22. Section 735.26 is revised to read as follows:

SECTION 735.26 - REPORTS.

(a) The agency shall, for each grant made under this Part, submit semiannually to the Director or his authorized designee a Financial Status Report, Form 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, Form 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 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.

(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.

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

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