



December 12, 2024
DGM Policy Alert # 2024-06

Policies and Procedures: Remedies for Noncompliance

MEMORANDUM FOR: All Indian Health Service (IHS) Recipients of Federal Financial Assistance

FROM: Marsha Brookins
Director, Division of Grants Management

This Alert provides guidance to Indian Health Service (IHS) recipients of Federal financial assistance to explain the remedies for noncompliance if a recipient fails to comply with the award terms and conditions.

If a recipient does not comply with award terms and conditions, the IHS Division of Grants Management (DGM) may take enforcement actions, in accordance with applicable statutes, regulations, and policy. A recipient will usually have an opportunity to correct the deficiencies unless there is a serious threat to public health or welfare concerns. The IHS DGM may take necessary proactive steps to protect the federal government's interests, and may take any action allowed by law, including those below: ([45 CFR §§ 75.371 - .380](#)) ([HHS Grants Policy Statement \(GPS\), Remedies for Noncompliance, pages 57 – 59](#)).

1. Implementation of Specific Award Conditions

The IHS DGM may place specific conditions on the award. The purpose is corrective. This remedy may be used if the recipient:

- a. Fails to comply with the terms and conditions of an award
- b. Fails to meet expected performance goals
- c. Is not otherwise responsible

When specific award conditions are imposed, the recipient will be notified of:

- a. The nature of the conditions
- b. The reason why
- c. The type of corrective action needed
- d. The time allowed for completing corrective actions
- e. The method for requesting reconsideration of the conditions

Examples of specific award conditions are removing a PD/PI, converting the award from advance payment to reimbursement, and adding reporting requirements ([45 CFR § 75.207](#)).

2. Disallowed Costs

The IHS DGM may disallow all or part of the cost of an activity or action determined not in compliance. The recipient must repay disallowed costs with non-federal funds or an offset from future year funds. Disallowed costs may be appealed.

3. Other Remedies

Depending on the nature of the deficiency, the IHS DGM may also:

- a. Temporarily withhold payment
- b. Withhold further Federal awards for the project or program
- c. Take other remedies that may be legally available

4. Suspending Award Activities or Termination

Consistent with [45 CFR § 75.372\(a\)](#), the IHS DGM may suspend, pending corrective action, or terminate all or part of a recipient's award activities pending corrective action if they fail to materially comply with the award terms and conditions.

The IHS DGM generally will suspend, rather than immediately terminate a federal award. This allows the recipient an opportunity to take appropriate corrective action before making the decision to terminate. The IHS DGM may decide to terminate the federal award if the recipient does not take appropriate action during the period of suspension.

Under suspension, the IHS DGM will provide the recipient:

- a. What project activities, if any, will take place during the period of suspension.
- b. What costs the IHS DGM will reimburse if the enforcement action is ultimately lifted and the award resumed.
- c. What corrective actions must occur during the enforcement action.
- d. The IHS DGM's intent to terminate the award if the recipient does not meet the conditions of the enforcement action.

The IHS DGM may terminate without first suspending the federal award if the problem is serious enough or if public health or welfare concerns require immediate action. Termination for cause may be appealed under the IHS and HHS federal appeals procedures. ([45 CFR § 75.374](#))

When the IHS DGM terminates a federal award prior to the end of the period of performance due to the recipient's material failure to comply with the federal award terms and conditions, we must report the termination to the OMB-designated integrity and performance system accessible through the Responsibility/Qualification System in [sam.gov](#). This information will be reported after the recipient has exhausted its opportunities to object or challenge the decision or has not within 30 calendar days after being notified of the termination informed the IHS DGM that it intends to appeal the decision to terminate. For full information on reporting termination in the Federal

Awardee Performance and Integrity Information System (FAPIS), see [45 CFR § 75.372\(b\)](#).

Suspension or Disbarment

An awarding agency may initiate suspension or disbarment proceedings under [2 CFR part 180](#) and HHS awarding agency regulations at [2 CFR part 376](#).

If you have questions, please contact your Grant Management Specialist or email the IHS Division of Grants Management Inbox at DGM@ihs.gov.