

the reasons for the denial of the request. The notification to OMB shall occur prior to informing the State of the refusal.

Subpart C—Management of Agreements

§ 3020.20 Use of consultants.

(a) *Basic policy*—(1) *Prior approval*. Awarding agencies shall not require prior approval for the use of consultants, except as noted in paragraphs (a)(2) and (b) of this section.

(2) *Exceptions*. (i) In unusual cases, using a consultant may constitute a transfer of substantive programmatic work, which requires prior approval under discretionary Federal awards.

(ii) Consulting fees paid by an organization to its own employees require prior approval.

(b) *Use of an organization's own employees*—(1) *Faculty members of educational institutions*. Charges representing extra compensation (above base salary) paid by an educational institution to a salaried member of its faculty for consulting work are allowable only in unusual cases, and only if both of the following conditions exist:

(i) The consultation is across departmental lines or involves a separate or remote operation; and

(ii) The work performed by the consultant is in addition to his or her regular departmental load.

(2) *All other cases*. In all other cases, consulting fees paid in addition to salary by recipients to people who are also their employees may be supported by a Federal award or subaward only in unusual cases, and only if all of the following three conditions exist:

(i) The policies of the recipient permit such consulting fee payments to its own employees regardless of whether Federal funds are involved;

(ii) The work involved is clearly outside the scope of the person's salaried employment; and

(iii) It would be inappropriate or not feasible to compensate for the additional work by paying additional salary to the employee.

(3) *Requirement for approval*. Consulting fees paid under paragraphs (a)(2) and (b)(1) and (2) of this section must have a specific prior approval in writing from the Head of the recipient organization or from his or her designated representative. If the recipient is a government, the approval may be given by the Head (or a designated representative of the Head) of the government agency that is primarily responsible for administering or carrying out the project or program.

If the designated representative is personally involved in the project or program under consideration, only the Head may give the approval. If the Head is personally involved in the project or program under consideration, prior approval from the awarding agency is required. Such prior approval must include a determination that the applicable requirements in paragraph (b) (1) or (2) of this section are present.

(c) *Documentation standards*. (1) Charges for consulting payments must be supported in the records of the recipient by an invoice from the consultant and a copy of the written report (if a report is appropriate) or other documented evidence of the work performed from the consultant.

(2) If any of the following information is not shown on the invoice or report from the consultant, the information must be shown in a memorandum or other document prepared by the recipient for its files, or noted in handwriting on the consultant's invoice by the recipient. The memorandum, other document, or handwritten notation must be signed by an official of the recipient and show:

(i) The name of the consultant;

(ii) The nature of the services provided (such as statistical analysis of data, participation on project advisory committee, or specified medical services to eligible beneficiaries);

(iii) The relevance of the services to the project or program, if not apparent from the nature of the services; and

(iv) Whichever of the following is applicable:

(A) If the fee was based on a rate per day or hours worked, the rate and the dates or hours worked;

(B) If the fee was based on a rate per unit of service provided, such as the number of patients examined by a physician, the rate, the number of units of service provided, and the beginning and ending dates of the overall period of service; or

(C) If the fee was determined on some other basis, the basis for determining the fee and the beginning and ending dates of the period in which services were provided.

§ 3020.21 Disposition of long term financial interests in real property, personal property, and equipment.

(a) When a USDA agency acquires a financial interest in real property in accordance with the rules set out in part 3016 or part 3019 of this chapter, and the originally authorized purpose for the property has been met, agencies shall follow the appropriate rules set out in part 3016 or part 3019 of this chapter for

the disposal of such real property except:

(1) When the recipient is a State or local government requesting authority to dispose of the property by sale to a domestic, non-governmental entity in accordance with Executive Order 12803 "Infrastructure Privatization," then the USDA awarding agency shall follow the method set out in Executive Order 12803 provided that the real property portion of the transaction is not depreciated in any manner.

(2) When the recipient has not requested disposal instructions and 20 years have passed since the last Federal need or use of the real property, then any Federal financial interest in the property shall be deemed to have ended.

(b) When a USDA agency acquires a financial interest in personal property or equipment in accordance with the rules set out in part 3016 or part 3019 of this chapter, and the originally authorized purpose for the property or equipment has been met, the agency shall follow the appropriate rules set out in part 3016 or part 3019 of this chapter for the disposal of such property or equipment except:

(1) When the recipient has not requested disposal instructions and 20 years have passed since the last Federal need or use of the property or equipment, then any Federal financial interest in the property or equipment shall be deemed to have ended.

(2) [Reserved]

Subpart D—Management of Funds

§ 3020.30 Management of indirect costs.

(a) Indirect costs may be paid only subsequent to the establishment of an indirect cost rate as required by §§ 3016.22 and 3019.27 of this chapter and the applicable cost principles or in the case of for-profit entities, the cost accounting standards. A provisional rate may be used pending the establishment of a final rate. In the absence of either a final or provisional indirect cost rate, awarding agencies are not authorized to advance or reimburse payments to entities for these costs.

(b) An awarding agency should pay the established indirect cost rate. Only where statutory authority exists, an awarding agency may pay an increase in the established direct cost rate. An awarding agency may pay a lesser amount than the established indirect cost rate if required by statute or if the recipient waives some or all of its indirect costs.

(c)(1) Recipients requesting payment of indirect costs may request the establishment of a negotiated indirect