

§ 98.66 Disallowance procedures.

(a) Any expenditures not made in accordance with the Act, the implementing regulations, or the approved Plan, will be subject to disallowance.

(b) If the Department, as the result of an audit or a review, finds that expenditures should be disallowed, the Department will notify the Lead Agency of this decision in writing.

(c)(1) If the Lead Agency agrees with the finding that amounts were not expended in accordance with the Act, these regulations, or the Plan, the Lead Agency shall fulfill the provisions of the disallowance notice and repay any amounts improperly expended; or

(2) The Lead Agency may appeal the finding:

(i) By requesting reconsideration from the Assistant Secretary, pursuant to paragraph (f) of this section; or

(ii) By following the procedure in paragraph (d) of this section.

(d) A Lead Agency may appeal the disallowance decision to the Departmental Appeals Board in accordance with 45 CFR part 16.

(e) The Lead Agency may appeal a disallowance of costs that the Department has determined to be unallowable under an award. A grantee may not appeal the determination of award amounts or disposition of unobligated balances.

(f) The Lead Agency's request for reconsideration in (c)(2)(i) of this section shall be postmarked no later than 30 days after the receipt of the disallowance notice. A Lead Agency may request an extension within the 30-day time frame. The request for reconsideration, pursuant to (c)(2)(i) of this section, need not follow any prescribed form, but it shall contain:

(1) The amount of the disallowance;

(2) The Lead Agency's reasons for believing that the disallowance was improper; and

(3) A copy of the disallowance decision issued pursuant to paragraph (b) of this section.

(g)(1) Upon receipt of a request for reconsideration, pursuant to (c)(2)(i) of this section, the Assistant Secretary or the Assistant Secretary's designee will inform the Lead Agency that the request is under review.

(2) The Assistant Secretary or the designee will review any material submitted by the Lead Agency and any other necessary materials.

(3) If the reconsideration decision is adverse to the Lead Agency's position, the response will include a notification of the Lead Agency's right to appeal to the Departmental Appeals Board, pursuant to paragraph (d) of this section.

(h) If a Lead Agency refuses to repay amounts after a final decision has been made, the amounts will be offset against future payments to the Lead Agency.

(i) The appeals process in this section is not applicable if the disallowance is part of a compliance review, pursuant to § 98.90, the findings of which have been appealed by the Lead Agency.

(j) Disallowances under the CCDF program are subject to interest regulations at 45 CFR part 30. Interest will begin to accrue from the date of notification.