



# Non-compliance / Enforcement Actions

## What situations can trigger an enforcement action?

Recipients are required to follow all rules and regulations outlined in their grant award and conduct activities as approved in their project and budget narrative – doing so will ensure no enforcement actions will be taken on the award! Here are a few situations that can cause enforcement actions.

- Late, incomplete, or inaccurate progress or financial reports.
- Not adhering to federal laws, regulations attached to the grant award.
- Fraudulent or unlawful activity.
- Organizational closure or abandonment.

## Why should you care (consequences)?

- Program impairment / failure
- Administrative penalties
  - Termination or restructuring of awards
  - Recover funds / withhold future funds
  - Suspension & debarment
- Correction action / Forced compliance plans
- Civil False Claims Act (Treble Damages)
- Criminal
  - Prison
  - Fines & restitution
  - Asset seizure
- As being civically responsible for taxpayer dollars

## What is an enforcement action?

Each situation will be carefully evaluated to determine the appropriate enforcement actions. Actions can include one or more of the following items:

- 1) Requesting a specific correction by the grantee within a defined time frame.
- 2) Imposing a high-risk type of special award condition (e.g., additional financial or performance reports, additional monitoring, additional prior approvals).
- 3) Suspending payments until a deficiency has been corrected or addressed.
- 4) Disallowing costs.
- 5) Suspending or terminating the award.
- 6) Initiate suspension or debarment proceedings as authorized under *2 CFR part 180* and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- 7) Withhold further Federal awards for the project, program, or entity.
- 8) Take other remedies that may be legally available.

**Failure to report after the 30/90 day windows will initiate emails from the Grants Online system to non-federal entity.**

## Can the award be terminated?

An award can be terminated by either the recipient (non-federal entity) or the federal government. All parties must be notified if terminated, and termination of awards can be considered when evaluating future applications received by NOAA. There is a process to appeal a termination. Specifically, 2 CFR Part 200 states:

The Federal award may be terminated in whole or in part as follows:

- 1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- 2) By the Federal awarding agency or pass-through entity for cause;

- 3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- 4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

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*When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.*

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## For more Information on Enforcement Actions and Non-compliance

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[Subpart D – Post Federal Award Requirements: Remedies for Noncompliance](#)