

INTER-AMERICAN INSTITUTE FOR GLOBAL CHANGE RESEARCH (IAI)

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SUSPENSION AND TERMINATION PROCEDURES FOR IAI PROJECTS

BACKGROUND

At its Thirteenth Meeting, held May 10-11, 2000 in Miami, the IAI Scientific Advisory Committee (SAC) discussed the overall progress of IAI's programs, and noted that in any diversified portfolio of scientific research, there were likely to be some projects that encountered difficulties of one kind or another. As the IAI progresses, it will doubtless encounter some of these difficult situations, and the SAC suggested that the policy organs of the IAI (the EC and CoP) begin to consider a policy for dealing with the termination of a grant.

From the SAC-XII Minutes:

... In addition, should it be decided that a project needs to be terminated, the procedure should be defined before a problem arises. Some necessary steps are (1) a clear warning, based on the specific criteria that are not being met, will be issued;(2) if problems continue, a site visit [is] warranted; and (3) the final decision with respect to termination will be made by the Executive Committee [sic].

From the SAC-XII Action List:

[#11] The IAI Executive Council and Conference of the Parties should consider the rules, conditions and procedure for terminating an IAI award for cases such as administrative or scientific default.

The IAI Directorate has asked the United States National Science Foundation to provide some guidance for procedures that the IAI might consider as a model to follow, and as a **starting point** for EC discussion and consideration. In this spirit, we submit the following **draft** document, in the hopes that pending discussion of these topics at the EC-XII and EC-XIII meetings (and perhaps in the interim by the appropriate Working Groups), a final policy might be approved by CoP-VIII in mid-2001. [PF]

1. SUSPENSION AND TERMINATION PROCEDURES

1.1. Definitions

- a. SUSPENSION is an action by the IAI that temporarily withholds support of a project pending corrective action by the grantee or a decision by the IAI to terminate the grant.
- b. TERMINATION is the cancellation of a grant, in whole or in part, at any time prior to its expiration.

1.2. Suspension and Termination

1.2.1. IAI Policy

- a. A grant may be suspended or terminated in whole or in part in any of the following situations:
 - 1. by the IAI when the grantee has materially failed to comply with the terms and conditions of the grant;
 - 2. by the IAI when the Institute has other reasonable cause;

3. by the IAI when ordered by the Director under the IAI's Policy on Misconduct in Science as outlined in Section 3, below;
 4. by the IAI and the grantee by mutual agreement (if the IAI and the grantee cannot reach an agreement, the IAI reserves the right to unilaterally terminate the grant); or
 5. by the grantee on written notice to the IAI setting forth the reasons for such action, the effective date, and, in the case of partial termination, the portion to be terminated or suspended (with the understanding that if the IAI determines that the unterminated portion will not accomplish the purposes of the grant it may suspend or terminate the entire grant).
- b. Normally, action by the IAI to suspend or terminate a grant will be taken only after the grantee has been informed by the IAI of the proposed action, or informed of any deficiency on its part and given an opportunity to correct it. However, the IAI may immediately suspend or terminate a grant without notice when it believes such action is reasonable to protect the interests of the Institute or any of its Member Governments.
 - c. No costs incurred during a suspension period or after the effective date of a termination will be allowable, except those costs which, in the opinion of the IAI, the grantee could not reasonably avoid or eliminate, or which were otherwise authorized by the suspension or termination notice, provided such costs would otherwise be allowable under the terms of the grant and the governing cost principles.
 - d. Within 30 days of the termination date the grantee will furnish a summary of progress under the grant and an itemized accounting of costs incurred prior to the termination date or pursuant to c., above. Final allowable costs under a termination settlement shall be in accordance with the terms of the grant, including this section, and the governing cost principles, giving due consideration to the progress under the grant. In no event will the total of IAI payments under a terminated grant exceed the grant amount or the IAI *pro rata* share when cost sharing was anticipated, whichever is less.
 - e. A notice of termination other than by mutual agreement and/or the final settlement amount may be subject to review pursuant to Section 2: "Informal Resolution of Grant Administration Disputes."

1.2.2. Procedures for Suspension or Termination by the IAI

- a. When it is believed that a grantee has failed to comply with one or more of the terms and conditions of a grant, the IAI Director will normally advise the grantee in writing of the nature of the problem and that failure to correct the deficiency may result in suspension or termination of the grant. The grantee will be requested to respond in writing within 30 calendar days of the date of such letter, describing the action taken or the plan designed to correct the deficiency. Copies of such correspondence will be furnished to the PI and to the IAI Scientific Officer. However, the IAI may immediately suspend or terminate a grant without notice when it believes such action is reasonable to protect the interests of the Institute or any of its Member Governments.
- b. If a satisfactory response is not received within the above period, the IAI Director may issue a notice immediately suspending authority to further obligate grant funds, in whole or in part. Notice of suspension is sent by certified mail (return receipt requested) to the Authorized Organizational Representative, with a copy to the PI. Within the IAI, a copy is furnished to the IAI Scientific Officer. The notice will set forth the terms of the suspension and its effective date.
- c. Normally, the suspension will remain in effect for a maximum of 60 days to allow the grantee to take corrective action. In the event that the deficiency is not corrected to the satisfaction of the IAI, the IAI Director may issue a notice of termination, addressed as in b., above. The notice will set forth the reasons for the action and its effective date.
- d. The remedies described in Section 2, "Informal Resolution of Grant Administration Disputes," below, do not preclude a grantee being barred from receiving future IAI funding.
- e. Suspension or termination due to misconduct in science will be imposed as provided in that regulation, below.

1.3. Termination by Mutual Agreement

1.3.1. IAI Policy

Circumstances may arise in which either the IAI or the grantee wishes to terminate a project. If both parties agree that continuation of the project would not produce results commensurate with the further expenditure of funds, or if there arises any other reason, the grant may be terminated by mutual agreement.

1.3.2. Procedures

- a. If the grantee wishes to terminate the project, the Authorized Organizational Representative should advise the IAI Director in writing and send a copy to the IAI Scientific Officer.
- b. If the IAI wishes to terminate the project, the IAI Director will advise the grantee's Authorized Organizational Representative in writing and send copies to the PI and the IAI Scientific Officer.
- c. Within 30 days after receipt of request from either party for termination by mutual agreement, the other party will provide an appropriate written response. In the event of disagreement between the parties, the IAI Director will make a final decision, subject to the review procedures prescribed by Section 2, "Informal Resolution of Grant Administration Disputes," below.
- d. Following termination, grant closeout procedures will be initiated.

1.4. IAI Suspension or Termination Review Procedure

Grantees should refer to Section 2.3, "Procedures," for procedures to request review of a suspension or termination notice. Pending resolution of the request for review, a notice of termination shall remain in effect.

2. INFORMAL RESOLUTION OF GRANT ADMINISTRATION DISPUTES

2.1. Background

With the intent of providing a preceding alternative procedure to formal dispute resolution, the Institute provides the informal resolution processes described below concerning disputes or disagreements that may arise over Director post-award decisions under an IAI grant.

2.2. Scope of Post-Award Disputes Covered

The disputes below are covered under the process described in Section 2.3, "Procedures":

- a. cost disallowances pursuant to a Financial Director 's decision, e.g., specific disallowances under an individual grant or as a result of an audit report;
- b. suspensions over 60 days;
- c. termination orders; and
- d. the final settlement amount under a termination.

2.3. Procedures

- a. The grantee should submit a certified letter to the Executive Council Chair, Inter-American Institute for Global Change Research, Avenida dos Astronautas 1758, São José dos Campos, SP 12221-010, Brazil, noting the grantee's disagreement or dispute and identifying the IAI Director 's decision in question, giving reasons for the request for review and providing any other material pertinent to the request.
- b. The letter to the EC Chair must be postmarked no later than 30 days after the date of the letter notifying the grantee of the decision in question. The time for filing a request for review is strictly enforced and no extensions for the purpose of preparing it will be granted.

- c. The request for review need not follow a prescribed format; however, it must contain a full statement of the grantee's position with respect to the disputed matter and the facts and reasons in support of the grantee's position. Requests will be reviewed if the grantee submits new information (which was unavailable at the time of the original decision); if an error in fact or application of IAI policy is noted in the original decision; or improper procedures were followed in the original decision.
- d. The Executive Council Chair will review or designate one or more individuals to review the matter. In no case will the review be undertaken by any individual involved with the decision or involved in recommending and/or monitoring the scientific aspects of the project or responsible for negotiating and/or administrating its business aspects.
- e. The designated individual(s) will review and consider all relevant information available. A report which identifies the conclusion and recommendation will be completed under one of the following two timetables:
 - 1. The report will be completed within 30 days and forwarded to the EC Chair or his/her designee for a final and unappealable written decision for the Institute. The EC Chair or his/her designee will communicate the decision in writing to the grantee, normally within 15 days of receipt of the report, unless otherwise specified by the IAI.
 - 2. The report will be completed within 90 days and forwarded to the Executive Council Chair or his/her designee. The EC Chair or his/her designee will make the final and unappealable decision for the Institute and will communicate the decision in writing to the grantee within 15 days of receipt of the report unless otherwise specified by the IAI.

3. MISCONDUCT IN SCIENCE

3.1. IAI Policies and Responsibilities

- a. MISCONDUCT means: 1) fabrication, falsification, plagiarism or other serious deviation from accepted practices in proposing, carrying out or reporting results from activities funded by the IAI; or 2) retaliation of any kind against a person who has reported or provided information about suspected or alleged misconduct and who has not acted in bad faith.
- b. The IAI will take appropriate action against individuals or organizations upon a determination that misconduct has occurred in proposing, carrying out or reporting results from activities funded by the IAI. It may also take interim action during an investigation. Possible actions include sending a letter of reprimand to the individual or organization, requiring prior IAI approval of particular activities by an individual or organization, requiring special assurances of compliance with particular policies, restricting designated activities or expenditures under particular grants, suspending or terminating grants, suspending an individual or organization from future funding and prohibiting participation by an individual as an IAI reviewer, advisor or consultant.
- c. The IAI will find misconduct only after careful inquiry and investigation by a grantee organization, by another institution or by the IAI. An "inquiry" consists of information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct has substance. An investigation must be undertaken if the inquiry determines the allegation or apparent instance of misconduct has substance. An "investigation" is a formal examination and evaluation of relevant facts to determine whether misconduct has taken place or, if misconduct has already been confirmed, to assess its extent and consequences or determine appropriate action.
- d. Before the IAI makes any final finding of misconduct or takes any final action on such a finding, the IAI will normally afford the accused individual or organization notice, a chance to provide comments and rebuttal and a chance to appeal. In structuring procedures in individual cases, the IAI may take into account procedures already followed by other entities investigating the same allegation of misconduct.

- e. Prohibition from receiving future IAI funding, or grant termination or suspension for misconduct will be imposed only after a decision by the full Executive Council. Severe misconduct is an independent cause for a prohibition from receiving future IAI funding.
- f. The IAI Executive Council, subject to final policy guidance from the IAI Conference of the Parties, oversees and coordinates IAI activities related to misconduct, conducts any IAI inquiries and investigations into suspected or alleged misconduct in science, and except where otherwise provided, speaks and acts for the IAI with affected individuals and organizations.
- g. After receiving an investigation report, the subject's rebuttal and recommendations of the Executive Council, the Executive Council Chair may initiate further investigation or hearings or order interim or final actions. A written disposition specifying actions to be taken will be sent to affected individuals or organizations and will include instructions on how to pursue an appeal to the full Executive Council.

3.2. Role of IAI Grantees

- a. Grantees bear primary responsibility for prevention and detection of misconduct. In most instances, the IAI will rely on grantees to promptly:
 - 1. initiate an inquiry into any suspected or alleged misconduct;
 - 2. conduct a subsequent investigation, if the inquiry finds substance; and
 - 3. take action necessary to ensure the integrity of research, the rights and interests of research subjects and the public and the observance of legal requirements or responsibilities.
- b. If a grantee wishes the IAI to defer independent inquiry or investigation, the IAI expects it to:
 - 1. inform the IAI immediately if an initial inquiry finds substance;
 - 2. keep the IAI informed during such an investigation;
 - 3. notify the IAI even before deciding to initiate an investigation or as required during an investigation:
 - (a) if the seriousness of apparent misconduct warrants;
 - (b) if immediate health hazards are involved;
 - (c) if the IAI's resources, reputation, or other interests need protecting;
 - (d) if Institutional action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
 - (e) if the scientific and engineering community or the public should be informed; and
 - 4. provide the IAI with the final report from any investigation.
- c. If a grantee wishes the IAI to defer independent inquiry or investigation, it should complete any inquiry and decide whether an investigation is warranted within 90 days. It should similarly complete any investigation and reach a disposition within 180 days. If completion of an inquiry or investigation is delayed, but the grantee wishes IAI deferral to continue, the IAI may require submission of periodic status reports.
- d. Grantees should maintain and effectively communicate to their staffs appropriate policies and procedures relating to misconduct, which should indicate when the IAI must or should be notified.

3.3. Reporting Possible Misconduct

Possible misconduct in activities funded by the IAI should be reported to the Director, Inter-American Institute for Global Change Research, Avenida dos Astronautas 1758, São José dos Campos, SP 12221-010, Brazil.