

OMB Guidance, Grants and Agreements

§ 175.25

this award, without penalty, if a sub-recipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)].

c. *Provisions applicable to any recipient.*

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

1. “Employee” means either:

i. An individual employed by you or a sub-recipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

B. A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

(c) An agency may use different letters and numbers to designate the paragraphs of the award term in paragraph (b) of this section, if necessary, to conform the system of paragraph designations with the one used in other terms and conditions in the agency’s awards.

§ 175.20 Referral.

An agency official should inform the agency’s suspending or debarring official if he or she terminates an award based on a violation of a prohibition contained in the award term under § 175.15.

§ 175.25 Definitions.

Terms used in this part are defined as follows:

(a) *Foreign public entity* means:

(1) A foreign government or foreign governmental entity;

(2) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288–288f);

(3) An entity owned (in whole or in part) or controlled by a foreign government; and

(4) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

(b) *Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*)) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(c) *Local government* means a:

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- (1) County;
 - (2) Borough;
 - (3) Municipality;
 - (4) City;
 - (5) Town;
 - (6) Township;
 - (7) Parish;
 - (8) Local public authority, including any public housing agency under the United States Housing Act of 1937;
 - (9) Special district;
 - (10) School district;
 - (11) Intrastate district;
 - (12) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and
 - (13) Any other instrumentality of a local government.
- (d) *Private entity.* (1) This term means any entity other than a State, local government, Indian tribe, or foreign public entity.
- (2) This term includes:
- (i) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe in paragraph (b) of this section.
 - (ii) A for-profit organization.
 - (e) *State*, consistent with the definition in section 103 of the TVPA, as amended (22 U.S.C. 7102), means:
 - (1) Any State of the United States;
 - (2) The District of Columbia;
 - (3) Any agency or instrumentality of a State other than a local government or State-controlled institution of higher education;
 - (4) The Commonwealths of Puerto Rico and the Northern Mariana Islands; and
 - (5) The United States Virgin Islands, Guam, American Samoa, and a territory or possession of the United States.

PART 176—AWARD TERMS FOR ASSISTANCE AGREEMENTS THAT INCLUDE FUNDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, PUBLIC LAW 111-5

- Sec.
- 176.10 Purpose of this part.
 - 176.20 Agency responsibilities (general).

176.30 Definitions.

Subpart A—Reporting and Registration Requirements under Section 1512 of the American Recovery and Reinvestment Act of 2009

- 176.40 Procedure.
- 176.50 Award term—Reporting and registration requirements under section 1512 of the Recovery Act.

Subpart B—Buy American Requirement under Section 1605 of the American Recovery and Reinvestment Act of 2009

- 176.60 Statutory requirement.
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- 176.150 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Section 1605 of the American Recovery and Reinvestment Act of 2009.
- 176.160 Award term—Required Use of American Iron, Steel, and Manufactured Goods (covered under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009.
- 176.170 Notice of Required Use of American Iron, Steel, and Manufactured Goods (covered under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009.

APPENDIX TO SUBPART B OF 2 CFR PART 176—U.S. STATES, OTHER SUB-FEDERAL ENTITIES, AND OTHER ENTITIES SUBJECT TO U.S. OBLIGATIONS UNDER INTERNATIONAL AGREEMENTS (AS OF FEBRUARY 16, 2010)

Subpart C—Wage Rate Requirements under Section 1606 of the American Recovery and Reinvestment Act of 2009

- 176.180 Procedure.
- 176.190 Award term—Wage rate requirements under Section 1606 of the Recovery Act.