

OMB Guidance, Grants and Agreements

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date of initial registration or subsequent updates its information in the SAM database to ensure it is current, accurate and complete.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

§ 25.205 Effect of noncompliance with a requirement to obtain a unique entity identifier or register in the SAM.

(a) An agency may not make an award to an entity until the entity has complied with the requirements described in § 25.200 to provide a valid unique entity identifier and maintain an active SAM registration with current information (other than any requirement that is not applicable because the entity is exempted under § 25.110).

(b) At the time an agency is ready to make an award, if the intended recipient has not complied with an applicable requirement to provide a unique entity identifier or maintain an active SAM registration with current information, the agency:

- (1) May determine that the applicant is not qualified to receive an award; and
- (2) May use that determination as a basis for making an award to another applicant.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

§ 25.210 Authority to modify agency application forms or formats.

To implement the policies in §§ 25.200 and 25.205, an agency may add a unique entity identifier field to application forms or formats previously approved by OMB, without having to obtain further approval to add the field.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

§ 25.215 Requirements for agency information systems.

Each agency that makes awards (as defined in § 25.325) must ensure that systems processing information related to the awards, and other systems as appropriate, are able to accept and use the unique entity identifier as the uni-

versal identifier for financial assistance applicants and recipients.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

§ 25.220 Use of award term.

(a) To accomplish the purposes described in § 25.100, an agency must include in each award (as defined in § 25.305) the award term in appendix A to this part.

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

Subpart C—Definitions

§ 25.300 Agency.

Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

§ 25.305 Award.

(a) *Award*, for the purposes of this part, means an award of Federal financial assistance that a non-Federal entity described in § 25.110(a) receives or administers in the form of—

- (1) A grant;
- (2) A cooperative agreement (which does not include a cooperative research and development agreement pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710a));
- (3) A loan;
- (4) A loan guarantee;
- (5) A subsidy;
- (6) Insurance;
- (7) Food commodities;
- (8) A direct appropriation;
- (9) Assessed or voluntary contributions; or
- (10) Any other financial assistance transaction that authorizes the non-Federal entity's expenditure of Federal funds.

(b) An *Award* does not include:

- (1) Technical assistance, which provides services in lieu of money; and
- (2) A transfer of title to Federally owned property provided in lieu of

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money, even if the award is called a grant.

§ 25.310 System of Award Management (SAM).

System for Award Management has the meaning given in paragraph C.1 of the award term in appendix A to this part.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014; 80 FR 54407, Sept. 10, 2015]

§ 25.315 Unique entity identifier.

Unique entity identifier has the meaning given in paragraph C.2 of the award term in appendix A to this part.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

§ 25.320 Entity.

Entity, as it is used in this part, has the meaning given in paragraph C.3 of the award term in Appendix A to this part.

§ 25.325 For-profit organization.

For-profit organization means a non-Federal entity organized for profit. It includes, but is not limited to:

- (a) An “S corporation” incorporated under Subchapter S of the Internal Revenue Code;
- (b) A corporation incorporated under another authority;
- (c) A partnership;
- (d) A limited liability corporation or partnership; and
- (e) A sole proprietorship.

§ 25.330 Foreign public entity.

Foreign public entity means:

- (a) A foreign government or foreign governmental entity;
- (b) 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);
- (c) An entity owned (in whole or in part) or controlled by a foreign government; and
- (d) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

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§ 25.335 Indian Tribe (or “Federally recognized Indian Tribe”).

Indian Tribe (or “*Federally recognized 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.

§ 25.340 Local government.

Local government means a:

- (a) County;
- (b) Borough;
- (c) Municipality;
- (d) City;
- (e) Town;
- (f) Township;
- (g) Parish;
- (h) Local public authority, including any public housing agency under the United States Housing Act of 1937;
- (i) Special district;
- (j) School district;
- (k) Intrastate district;
- (l) Council of governments, whether or not incorporated as a nonprofit corporation under State law; and
- (m) Any other instrumentality of a local government.

§ 25.345 Nonprofit organization.

Nonprofit organization—

- (a) Means any corporation, trust, association, cooperative, or other organization that—
 - (1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - (2) Is not organized primarily for profit; and
 - (3) Uses net proceeds to maintain, improve, or expand the operations of the organization.
- (b) Includes nonprofit—
 - (1) Institutions of higher education;
 - (2) Hospitals; and
 - (3) Tribal organizations other than those included in the definition of “Indian Tribe.”

§ 25.350 State.

State means—

- (a) Any State of the United States;
- (b) The District of Columbia;
- (c) Any agency or instrumentality of a State other than a local government or State-controlled institution of higher education;
- (d) The Commonwealths of Puerto Rico and the Northern Mariana Islands; and
- (e) The United States Virgin Islands, Guam, American Samoa, and a territory or possession of the United States.

§ 25.355 Subaward.

Subaward has the meaning given in paragraph C.4 of the award term in Appendix A to this part.

§ 25.360 Subrecipient.

Subrecipient has the meaning given in paragraph C.5 of the award term in Appendix A to this part.

APPENDIX A TO PART 25—AWARD TERM

I. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

A. Requirement for System for Award Management

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for unique entity identifier

If you are authorized to make subawards under this award, you:

- 1. Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
- 2. May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

C. Definitions

For purposes of this award term:

- 1. *System for Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration proce-

dures may be found at the SAM Internet site (currently at <http://www.sam.gov>).

2. *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.

3. *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. *Subaward*:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. *Subrecipient* means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.

[75 FR 55673, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014; 80 FR 54407, Sept. 10, 2015]

PARTS 26–169 [RESERVED]**PART 170—REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION****Subpart A—General**

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- 170.100 Purposes of this part.
- 170.105 Types of awards to which this part applies.
- 170.110 Types of entities to which this part applies.
- 170.115 Deviations.

Subpart B—Policy

- 170.200 Requirements for program announcements, regulations, and application instructions.
- 170.220 Award term