

Department of Health and Human Services**§ 75.111**

(2 CFR part 225) and also FEDERAL REGISTER notice 51 FR 552 (January 6, 1986);

(3) A-89, "Federal Domestic Assistance Program Information";

(4) A-102, "Grant Awards and Cooperative Agreements with State and Local Governments";

(5) A-110, "Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations" (codified at 2 CFR 215);

(6) A-122, "Cost Principles for Non-Profit Organizations" (2 CFR part 230);

(7) A-133, "Audits of States, Local Governments and Non-Profit Organizations", and

(8) Those sections of A-50 related to audits performed under subpart F of this part.

(b) This part also supersedes HHS regulations at 45 CFR parts 74 and 92.

[79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3014, Jan. 20, 2016]

§ 75.105 Effect on other issuances.

For Federal awards subject to this part, all administrative requirements, program manuals, handbooks and other non-regulatory materials that are inconsistent with the requirements of this part are superseded upon implementation of this part by the HHS awarding agency, except to the extent they are required by statute or authorized in accordance with the provisions in § 75.102.

§ 75.106 Agency implementation.

HHS is implementing the language in 2 CFR part 200 in these codified regulations.

§ 75.107 OMB responsibilities.

OMB will review HHS agency regulations and implementation of 2 CFR part 200, and will provide interpretations of policy requirements and assistance to ensure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

§ 75.108 Inquiries.

Inquiries concerning 2 CFR part 200 may be directed to the Office of Fed-

eral Financial Management, Office of Management and Budget, in Washington, DC. Inquiries concerning 45 CFR part 75 should be addressed to the HHS awarding agency, cognizant agency for indirect costs, cognizant or oversight agency for audit, or pass-through entity as appropriate.

§ 75.109 Review date.

OMB will review 2 CFR part 200 and HHS will review 45 part 75 at least every five years after December 26, 2013.

§ 75.110 Effective/Applicability date.

(a) The standards set forth in this part which affect administration of Federal awards issued by HHS agencies become effective December 26, 2014 unless different provisions are required by statute or approved by OMB. For the procurement standards in 45 CFR 75.326 through 75.335, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in 45 CFR 75.104) for two additional fiscal years after this part goes into effect. If a non-Federal entity chooses to use the previous procurement standards for an additional two fiscal years before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies.

(b) The standards set forth in subpart F of this part and any other standards which apply directly to HHS agencies will be effective December 26, 2013, and will apply to audits of fiscal years beginning on or after December 26, 2014.

[79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3014, Jan. 20, 2016; 81 FR 89395, Dec. 12, 2016]

§ 75.111 English language.

(a) All Federal financial assistance announcements and Federal award information must be in the English language. Applications must be submitted in the English language and must be in the terms of U.S. dollars. If the HHS awarding agency receives applications in another currency, the HHS awarding agency will evaluate the application by converting the foreign currency to

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United States currency using the date specified for receipt of the application.

(b) Non-Federal entities may translate the Federal award and other documents into another language. In the event of inconsistency between any terms and conditions of the Federal award and any translation into another language, the English language meaning will control. Where a significant portion of the non-Federal entity's employees who are working on the Federal award are not fluent in English, the non-Federal entity must provide the Federal award in English and the language(s) with which employees are more familiar.

§ 75.112 Conflict of interest.

(a) HHS awarding agencies must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the respective HHS awarding agency or pass-through entity in accordance with applicable HHS awarding agency's policy. As a general matter, HHS awarding agencies' conflict of interest policies must:

(1) Address conditions under which outside activities, relationships, or financial interests are proper or improper;

(2) Provide for advance notification of outside activities, relationships, or financial interests, and a process of review as appropriate; and

(3) Outline how financial conflicts of interest may be addressed.

(b) Agencies with Public Health Service (PHS) funded research will ensure that any conflict of interest policies are aligned with the requirements of 42 CFR part 50, subpart F.

§ 75.113 Mandatory disclosures.

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the HHS awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII are required to report certain civil, criminal, or ad-

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ministrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in § 75.371, including suspension or debarment. (See also 2 CFR parts 180 and 376, and 31 U.S.C. 3321).

[79 FR 75889, Dec. 19, 2014, as amended at 81 FR 3014, Jan. 20, 2016]

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

§ 75.200 Purpose.

(a) Sections 75.201 through 75.208 prescribe instructions and other pre-award matters to be used in the announcement and application process.

(b) Use of §§ 75.203, 75.204, 75.205, and 75.207, is required only for competitive Federal awards, but may also be used by the HHS awarding agency for non-competitive awards where appropriate or where required by Federal statute.

§ 75.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

(a) The HHS awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (*i.e.*, grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08).

(b) Fixed Amount Awards. In addition to the options described in paragraph (a) of this section, HHS awarding agencies, or pass-through entities as permitted in § 75.353, may use fixed amount awards (see § 75.2 *Fixed amount awards*) to which the following conditions apply:

(1) The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. The HHS awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award based on a reasonable estimate of actual cost. Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. Except in the case of termination