

SUBCHAPTER C—AWARD FORMAT AND NATIONAL POLICY TERMS AND CONDITIONS FOR ALL GRANTS AND COOPERATIVE AGREEMENTS

PART 1120—AWARD FORMAT FOR DOD GRANTS AND COOPERATIVE AGREEMENTS

Sec.

- 1120.1 Purpose of this part.
- 1120.2 Applicability of this part.
- 1120.3 DoD Component implementation.
- 1120.4 Elements and subelements of the standard award format in relation to the organization of this part.

Subpart A—Award Cover Pages

- 1120.100 Purpose of the award cover pages.
- 1120.105 Content of the award cover pages.
- 1120.110 Use of alternative to DoD form.

Subpart B—Award-Specific Terms and Conditions

- 1120.200 Purpose and inclusion of award-specific terms and conditions.
- 1120.205 Organization and wording of award-specific terms and conditions.

Subpart C—General Terms and Conditions

- 1120.300 Purpose of general terms and conditions.
- 1120.305 Requirement for general terms and conditions.
- 1120.310 Use of plain language.
- 1120.315 Availability of general terms and conditions.

Subpart D—Preamble to the General Terms and Conditions

- 1120.400 Requirement to include a preamble.
- 1120.405 Content of the preamble.

Subpart E—Administrative Requirements Portion of the General Terms and Conditions

- 1120.500 Scope of administrative requirements.
- 1120.505 Location of administrative requirements in the standard award format.
- 1120.510 Sources of administrative requirements.

- 1120.515 Incorporation of administrative requirements into general terms and conditions by reference.

Subpart F—National Policy Requirements Portion of the General Terms and Conditions

- 1120.600 Scope of national policy requirements.
- 1120.605 Location of national policy requirements in the standard award format.
- 1120.610 Source of national policy requirements.
- 1120.615 Incorporation of national policy requirements into general terms and conditions by reference.

Subpart G—Programmatic Requirements Portion of the General Terms and Conditions

- 1120.700 Scope of programmatic requirements.
- 1120.705 Location of programmatic requirements in the standard award format.
- 1120.710 Examples of programmatic requirements.

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 113.

SOURCE: 85 FR 51163, Aug. 19, 2020, unless otherwise noted.

§ 1120.1 Purpose of this part.

This part of the DoD Grant and Agreement Regulations (DoDGARs) establishes a standard award format for DoD Components' grants and cooperative agreements. It thereby makes the content easier for a recipient to locate in different DoD Components' awards.

§ 1120.2 Applicability of this part.

(a) *To whom it applies.* This part:

(1) Sets forth requirements for DoD Components that award grants and cooperative agreements.

(2) Does not impose requirements on recipients of DoD Components' awards.

(b) *To what awards it applies.* This part applies to grants and cooperative agreements, other than technology investment agreements (TIAs), awarded to any type of recipient entity.

§ 1120.3 DoD Component implementation.

Each DoD Component that awards grants or cooperative agreements must:

- (a) Conform the format of its awards to the standard format established by this part no later than [18 months after the effective date of the final rule].
- (b) Update electronic systems it maintains for generating awards within 18 months of the issuance of a new or updated DoD form for the award cover pages, in order to implement that form in those systems, unless it has an approved deviation in accordance with §1120.110.

§ 1120.4 Elements and subelements of the standard award format in relation to the organization of this part.

- (a) The standard award format has three major elements that are designated as Divisions I through III of the award.
 - (1) The first major element of the standard award format is comprised of the award cover pages. It is designated as Division I of the award.
 - (2) The second major element is comprised of any award-specific terms and conditions. That element is designated as Division II of the award.
 - (3) The last of the three major elements of the standard award format is

- comprised of the general terms and conditions. That element is designated as Division III of the award. It has four subelements that are designated as Subdivisions A through D of the general terms and conditions.
 - (i) The first subelement of the general terms and conditions is the preamble, which is designated as Subdivision A.
 - (ii) The second subelement of the general terms and conditions is comprised of terms and conditions addressing administrative requirements. That subelement is designated as Subdivision B of the general terms and conditions.
 - (iii) The third subelement of the general terms and conditions is comprised of terms and conditions addressing national policy requirements. That subelement is designated as Subdivision C of the general terms and conditions.
 - (iv) The last of the four subelements of the general terms and conditions is comprised of any programmatic requirements that apply to awards using those general terms and conditions. That subelement is designated as Subdivision D of the general terms and conditions.
- (b) This part has seven subparts. Each subpart addresses one major element or subelement of the standard award format, as shown in Table 1:

TABLE 1 TO PARAGRAPH (b)

Major element or subelement of the standard award format	Subpart of this part
(1) Division I—Award cover pages	Subpart A.
(2) Division II—Award-specific terms and conditions, if any	Subpart B.
(3) Division III—General terms and conditions, comprised of four subelements:	Subpart C.
(i) Subdivision A—The preamble to the general terms and conditions	Subpart D.
(ii) Subdivision B—General terms and conditions for administrative requirements	Subpart E.
(iii) Subdivision C of the—General terms and conditions for national policy requirements	Subpart F.
(iv) Subdivision D—General terms and conditions for programmatic requirements, if any	Subpart G.

Subpart A—Award Cover Pages

§ 1120.100 Purpose of the award cover pages.

The award cover pages comprise the portion of each DoD Component award of a grant or cooperative agreement or modification to an award that the DoD Component transmits to the recipient when it makes the award or modification. It:

- (a) Contains basic information about the award or modification and the recipient, as described in §1120.105;
- (b) Is signed by a DoD grants officer; and
- (c) Also is signed by the recipient's authorized organizational representative if the award or modification is a bilateral action that is to be signed on behalf of both the DoD Component and recipient.

§ 1120.105

2 CFR Ch. XI (1–1–21 Edition)

§ 1120.105 **Content of the award cover pages.**

The award cover pages of each DoD Component grant or cooperative agreement or modification:

(a) Must include, as a minimum, the following information about the award or modification:

(1) The name of the DoD Component awarding office that made the award or modification.

(2) The award number (Federal Award Identification Number or FAIN) and, if the action is a modification, the modification number.

(3) The type of award—*i.e.*, grant or cooperative agreement.

(4) The type of award action—*e.g.*, new award, funding modification, or administrative (non-funding) modification. For an administrative modification, the award cover pages should include a brief description of the purpose of the modification (*e.g.*, a no-cost extension of the end date of the period of performance).

(5) For a new award or funding modification:

(i) A brief description of the project or program supported by the award.

(ii) The amount of the obligation or deobligation of Federal funds due to

the current action and any accompanying change in the total amount of cost sharing or matching required under the award.

(iii) The cumulative amounts of Federal funds and any corresponding non-Federal share obligated to date (*i.e.*, the sums of the amounts of the current action and the cumulative amounts of prior obligations and deobligations).

(iv) The total amount of the project costs in the currently approved budget through the end of the period of performance, the Federal share of that amount, and the non-Federal share even if that share is “zero.”

(v) The total value of the award; the Federal share of that total value (which includes Federal funding obligated to date; future incremental funding actions; and options for which amounts have been predetermined, whether or not they have been exercised yet); and the non-Federal share of that total value (*i.e.*, total cost sharing or matching required under the award).

(vi) A table such as the following may be helpful in clearly presenting the information described in paragraphs (a)(5)(i) through (vi) of this section:

	Federal funds	Corresponding non-Federal share	Total amount
(A) Obligated or deobligated this action
(B) Cumulative obligations to date, including this and previous actions
(C) Planned project costs in the currently approved budget through the end of the period of performance, to include any future incremental funding obligations
(D) Total value, which includes any unexercised options for which amounts were established in the award

(6) The obligation date (*i.e.*, the date of the grants officer’s signature) and, if different, the effective date.

(7) The start date and current end date of the period of performance.

(8) The statutory authority or authorities under which the award or modification was made.

(9) The number and title of the program listed in the Catalog of Federal Domestic Assistance under which the award or modification was made.

(10) For a new award (or, as needed, in a modification that amends any of the following information):

(i) Whether the project or program under the award is research and development (R&D). This information is needed by auditors performing single audits of recipients because the OMB guidance to the auditors treats all Federal agencies’ R&D programs as a single group (or “cluster”) of programs for audit sampling purposes (see the Single Audit Act requirements implemented in subpart E of 2 CFR part 1128 and FMS Article V in appendix E to part 1128).

(ii) What the award includes in addition to the cover pages—*i.e.*, the:

Department of Defense

§ 1120.110

(A) Scope of work or other appropriate content to specify the goals and objectives of the project or program supported by the award;

(B) Approved budget; and

(C) General, and any award specific, terms and conditions of the award.

(iii) Where the portions of the award listed in paragraph (a)(10)(ii) of this section are located, which content the DoD Component generally should incorporate into the award by reference. When incorporating that content into the award by reference, the DoD Component must both:

(A) Indicate in the award cover pages that the award incorporates those items into the award by reference, thereby making them an integral part of the award; and

(B) Specify their location (see § 1120.315), rather than transmit them in their entirety with each award.

(iv) The order of precedence in the event of conflict among the general and any award-specific terms and conditions and other potential sources of requirements (*e.g.*, Federal statutes).

(v) The name of, and contact information for, the individual or office in the DoD responsible for post-award administration of the award. If there are multiple individuals and offices for different post-award functions (*e.g.*, payments and property administration), the award cover pages should provide information about each.

(vi) The name of, and contact information for, the DoD Component's program manager or other point of contact for programmatic matters.

(b) Must include, as a minimum, the following information about the recipient entity:

(1) The recipient's unique entity identifier required for its registration in the System for Award Management (SAM). Currently, that is the Dun and Bradstreet Data Universal Numbering System (DUNS) number.

(2) The recipient's business name and address, which must be the legal business or "doing business as" name and physical address in SAM at the time of award corresponding to the recipient's unique entity identifier.

(3) The name and title of the recipient's authorized representative, either the individual who signed the applica-

tion or proposal on behalf of the recipient entity or another individual designated by that entity.

(4) The name of the recipient's Project or Program Director (PD) or Principal Investigator (PI) and his or her organization, if different from the name of the recipient organization. If there are multiple PDs or co-PIs, the name and organization of each should be included.

(5) The indirect cost rate in effect at the start of the performance period for the award, which generally is a Governmentwide rate negotiated by the recipient's cognizant agency for indirect costs. However, this requirement does not apply—*i.e.*, the award cover pages need not include the recipient's indirect cost rate—if the recipient entity affirms that it treats its indirect cost rate as proprietary information.

(c) May also include, as applicable, elements such as:

(1) A statement that the award can be amended only by a grants officer. The statement might also explain how amendments are issued.

(2) Information about any planned, future incremental funding or options for which amounts were pre-determined.

§ 1120.110 Use of alternative to DoD form.

(a) A DoD Component may use something other than a DoD form as its award cover pages only if:

(1) There is not currently any DoD form for the award cover pages; or

(2) The DoD Component obtains approval for a deviation from the requirement to use a DoD form from the Office of the Assistant Secretary of Defense for Research and Engineering, in accordance with the procedures specified in 32 CFR 21.340.

(b) If a DoD Component does not use a DoD form for its award cover pages, as described in paragraph (a) of this section, its award cover pages must include all information specified in § 1120.105.

Subpart B—Award-specific Terms and Conditions

§ 1120.200 Purpose and inclusion of award-specific terms and conditions.

A DoD Component must include with each award, for transmission to the recipient, any terms and conditions needed to communicate requirements specific to the individual award as distinct from the more broadly applicable requirements in the general terms and conditions. For a modification to an award, only changes to previously transmitted terms and conditions must be included.

§ 1120.205 Organization and wording of award-specific terms and conditions.

DoD Components should organize and word award-specific terms and conditions to make them as clear and easy to understand as possible for the benefit of recipients, award administrators, auditors, and others who may need to use them. The DoDGARs specify neither a standard organization nor standard wording for award-specific terms and conditions.

Subpart C—General Terms and Conditions

§ 1120.300 Purpose of general terms and conditions.

The general terms and conditions comprise the portion of the award with requirements that apply to a class of awards (*e.g.*, awards under a particular program or type of program activity, such as research or education, or for a class of recipients, such as for-profit entities).

§ 1120.305 Requirement for general terms and conditions.

Each DoD Component must establish at least one set of general terms and conditions. A DoD Component may have more than one set, as it deems appropriate to reflect differences in its award terms and conditions across different programs, classes of recipients, or types of activity.

§ 1120.310 Use of plain language.

(a) DoD Components must use plain language in:

(1) General terms and conditions of grants and cooperative agreements to institutions of higher education, non-profit organizations, States, local governments, and Indian tribes. Those awards are subject to the DoDGARs provisions in:

(i) 2 CFR parts 1128 through 1138, the appendices to which provide standard wording for general terms and conditions addressing administrative requirements. That standard wording uses personal pronouns.

(ii) 2 CFR part 1122, the appendices to which provide standard wording for general terms and conditions addressing commonly applicable national policy requirements. That standard wording also uses personal pronouns.

(2) The national policy requirements in Subdivision B of general terms and conditions of grants and cooperative agreements to for-profit entities, which also are subject to 2 CFR part 1122.

(b) Although the DoDGARs currently do not provide standard wording for terms and conditions addressing administrative requirements for use in awards to for-profit entities, DoD Components are strongly encouraged to use plain language and personal pronouns in their terms and conditions of those other awards. The DoDGARs provisions that specify the administrative requirements to incorporate into those terms and conditions are listed in § 1120.510(b).

§ 1120.315 Availability of general terms and conditions.

(a) A DoD Component that issues a funding opportunity announcement under which grants or cooperative agreements may be awarded must maintain on the internet the general terms and conditions for those awards if:

(1) The distribution of the funding opportunity announcement is unlimited; and

(2) The DoD Component anticipates making 10 or more awards per year using those general terms and conditions.

(b) Each DoD Component that maintains a set of general terms and conditions on the internet must also maintain an archive of previous versions of that set at the same internet location, for use by recipients, post-award administrators, auditors, and others. Each version must be labeled with its effective dates.

(c) If a DoD Component has a set of general terms and conditions that is not subject to the requirement in paragraph (a) of this section and the DoD Component chooses not to maintain that set on the internet:

(1) It must tell potential applicants or proposers in the funding opportunity announcement, if there is one, how they may view or obtain a copy of the general terms and conditions; or

(2) If there is no funding opportunity announcement (*e.g.*, if it is a non-competitive program for which all recipients are known in advance), the DoD Component must provide the general terms and conditions to each recipient no later than the time of award.

Subpart D—Preamble to the General Terms and Conditions

§ 1120.400 Requirement to include a preamble.

Each DoD Component must include a preamble as Subdivision A of each set of general terms and conditions it maintains, to provide information to help recipients understand how to use those terms and conditions.

§ 1120.405 Content of the preamble.

The preamble for each set of general terms and conditions must include at least the following information elements, organized in the order shown:

(a) *Table of contents.* This should show the articles within each other subdivision of the general terms and conditions (Subdivisions B and C for administrative and national policy requirements and, if needed, Subdivision D for programmatic requirements).

(b) *Scope.* This element identifies the programs, types of awards, and types of recipient entities that are subject to

the set of general terms and conditions.

(c) *Effective date.* This is the date on which the particular version of the set of general terms and conditions became effective, which enables a recipient to easily distinguish it from any earlier or subsequent versions. The version date of each article within the general terms and conditions must be indicated in parentheses following the title of the article, to help a recipient identify the articles that changed from previous versions of the general terms and conditions.

(d) *English language.* The purpose of this element of the preamble is to implement OMB guidance in 2 CFR 200.111(b) by informing each recipient that:

(1) It must translate any of the award content (including attachments to it and any material incorporated into the award by reference) into another language to the extent that the recipient's compliance with the award's terms and conditions depends upon a significant number of its employees who are not fluent in English being able to read and comprehend that content.

(2) If it does translate any award content into another language, either as required by paragraph (d)(1) of this section or at its own initiative, the original award content in the English language will take precedence in the event of an inconsistency between the award requirements in the English and translated versions.

(e) *Plain language.* This section of the preamble is required when the general terms and conditions use personal pronouns, in accordance with § 1120.310. Its purpose is to inform recipients about the meanings of those personal pronouns.

(f) *Definitions.* Providing the definitions of words and phrases that are used in the general terms and conditions and defined in the DoDGARs is more helpful to recipients than referring them to the DoDGARs to find the definitions.

Subpart E—Administrative Requirements Portion of the General Terms and Conditions

§ 1120.500 Scope of administrative requirements.

The administrative requirements in an award are post-award and after-the-award requirements for recipients in the following subject matter areas:

- (a) Financial and program management, to include financial management system standards, payment, allowable costs, program and budget revisions, audits, cost sharing or matching, and program income.
- (b) Property administration, to include title vesting, property management system standards, and use and disposition of tangible and intangible property.
- (c) Recipient procurement procedures.
- (d) Financial, programmatic, property, and other reporting.
- (e) Records retention and access, remedies, claims and disputes, and closeout.

§ 1120.505 Location of administrative requirements in the standard award format.

As shown in the table in § 1120.4(b), the standard award format includes administrative requirements as Subdivision B of the general terms and conditions.

§ 1120.510 Sources of administrative requirements.

The source of administrative requirements is:

- (a) Subchapter D of this chapter for cost-type grant and cooperative agreement awards to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes. Subchapter D provides a standard set of articles into which a DoD Component organizes the administrative requirements. It also provides standard wording for the general terms and conditions in those articles, as explained in the overview of subchapter D in 2 CFR part 1126.
- (b) 32 CFR part 34 for grant and cooperative agreement awards to for-profit entities. That part of the DoDGARs

specifies the administrative requirements for awards to those entities but does not provide standard articles or terms and conditions.

§ 1120.515 Incorporation of administrative requirements into general terms and conditions by reference.

(a) For cost-type awards to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes, DoD Components are strongly encouraged to construct the portion of their general terms and conditions addressing administrative requirements by:

- (1) Incorporating the standard wording of each article of administrative requirements provided in subchapter D of this chapter (the standard wording of the articles is in the appendices to 2 CFR parts 1128 through 1138) into those general terms and conditions by reference; and
- (2) Stating any variations from that standard wording (*e.g.*, any sections or paragraphs that the DoD Component adds, revises, or omits, consistent with the DoDGARs prescription for use of the standard wording).

(b) Incorporating that standard wording into general terms and conditions by reference, rather than including the full text of each article of the general terms and conditions, will make it easier for those who must use terms and conditions of multiple DoD Components' awards (*e.g.*, recipients, DoD Components' post-award administrators, and auditors) to quickly identify how each Component's general terms and conditions differ from the DoD standard wording.

Subpart F—National Policy Requirements Portion of the General Terms and Conditions

§ 1120.600 Scope of national policy requirements.

National policy requirements, as defined in 2 CFR 1122.2, are requirements:

- (a) That are prescribed by a statute, Executive order, policy guidance issued by the Executive Office of the President, or regulation that specifically

Department of Defense

§ 1120.710

refer to grants, cooperative agreements, or financial assistance in general;

(b) With which a recipient of a grant or cooperative agreement must comply during the period of performance; and

(c) That are outside subject matter areas covered by administrative requirements, as described in §1120.500.

§ 1120.605 Location of national policy requirements in the standard award format.

As shown in the table in §1120.4(b), the standard award format includes national policy requirements as Subdivision C of the general terms and conditions.

§ 1120.610 Source of national policy requirements.

The source of national policy requirements to be included in a grant or cooperative agreement is 2 CFR part 1122.

§ 1120.615 Incorporation of national policy requirements into general terms and conditions by reference.

For the same reason given in §1120.515(b), DoD Components are strongly encouraged to construct the portion of their general terms and conditions addressing national policy requirements for awards to all types of recipient entities, including for-profit entities, by:

(a) Incorporating the standard wording of each article of national policy requirements provided in the appendices to 2 CFR part 1122 into those general terms and conditions by reference; and

(b) Stating any variations from that standard wording (*e.g.*, any added, omitted, or revised paragraphs, based on which national policy requirements apply to programs and recipients for which the general terms and conditions are used).

Subpart G—Programmatic Requirements Portion of the General Terms and Conditions

§ 1120.700 Scope of programmatic requirements.

A requirement is most appropriately included in the programmatic require-

ments portion of the general terms and conditions if it:

(a) Is not in one of the subject matter areas covered by the administrative requirements in Subdivision B of the general terms and conditions, as described in §1120.500.

(b) Does not meet the criteria in §1120.600 for a national policy requirement.

(c) Broadly applies to awards using the general terms and conditions. Requirements that apply to relatively few of those awards are more appropriately included in the award-specific terms and conditions of the individual awards to which they apply.

(d) Is expected to be in effect for the foreseeable future, rather than for a limited period of time. For example, a requirement in an annual appropriations act that applies specifically to funding made available by that act is better addressed through the award-specific terms and conditions of awards or modifications to which it applies.

§ 1120.705 Location of programmatic requirements in the standard award format.

As shown in the table in §1120.4(b), the standard award format includes programmatic requirements as Subdivision D of the general terms and conditions.

§ 1120.710 Examples of programmatic requirements.

Examples of provisions appropriately included as programmatic requirements in Subdivision D of the general terms and conditions include:

(a) Requirements for recipients to acknowledge the DoD Component's support in publications of results of the projects or programs performed under awards.

(b) Requirements for recipients to promptly alert the DoD Component if they develop any information in the course of performing the projects or programs under their awards that, in their judgment, might adversely affect national security if disclosed.

(c) Reservation of the Government's right to use non-Federal personnel in any aspect of post-award administration of awards, with appropriate non-disclosure requirements placed on

those personnel to protect sensitive information about recipients or the projects or programs supported by their awards.

PART 1121 [RESERVED]

PART 1122—NATIONAL POLICY REQUIREMENTS: GENERAL AWARD TERMS AND CONDITIONS

Sec.

Subpart A—General

- 1122.1 Purpose of this part.
 1122.2 Definition of “national policy requirement.”
 1122.3 Definitions of other terms as they are used in this part.

Subpart B—Terms and Conditions

- 1122.100 Purpose of this subpart.
 1122.105 Where to find the terms and conditions.
 1122.110 Organization of each article of national policy requirements.
 1122.115 Cross-cutting national policy requirements.
 1122.120 Other national policy requirements.
 Appendix A Terms and condition for NP Article I, “Nondiscrimination National Policy Requirements.”
 Appendix B Terms and condition for NP Article II, “Environmental National Policy Requirements.”
 Appendix C Terms and conditions for NP Article III, “National Policy Requirements Concerning Live Organisms.”
 Appendix D Terms and conditions for NP Article IV, “Other National Policy Requirements.”

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 113.

SOURCE: 85 FR 51225, Aug. 19, 2020, unless otherwise noted.

Subpart A—General

§ 1122.1 Purpose of this part.

(a) This part specifies a standard format and standard wording of general terms and conditions for Subdivision B of the general terms and conditions of DoD grants and cooperative agreements, which concerns national policy requirements.

(b) It thereby implements:

- (1) Office of Management and Budget (OMB) guidance in 2 CFR 200.210(b)(ii) and 200.300, as those paragraphs of 2 CFR part 200 relate to national policy

requirements for general terms and conditions of DoD grants and cooperative agreements to institutions of higher education and other nonprofit organizations, States, local governments, and Indian tribes.

(2) National policy requirements, to the extent they apply, for general terms and conditions of DoD awards to for-profit firms, foreign organizations, and foreign public entities.

§ 1122.2 Definition of “national policy requirement.”

For the purposes of this chapter, a national policy requirement is a requirement:

(a) That is prescribed by a statute, Executive order, policy guidance issued by the Executive Office of the President, or regulation that specifically refers to grants, cooperative agreements, or financial assistance in general;

(b) With which a recipient of a grant or cooperative agreement must comply during the period of performance; and

(c) That is outside subject matter areas covered by administrative requirements in subchapters D or E of this chapter.

§ 1122.3 Definition of other terms as they are used in this part.

Because the meaning of some terms used in this part derive from their definitions in the statutes, Executive orders, or other sources of national policy requirements that this part implements, the meanings of those terms may vary from their meanings in other parts of the DoD Grant and Agreement Regulations. For example, some statutes define “State” in ways that differ from each other and from the definition provided in 2 CFR part B. In each case, the definition in the source of the pertinent national policy requirement takes precedence over the definition in 2 CFR part B for the purposes of complying with that requirement.

Subpart B—Terms and Conditions

§ 1122.100 Purpose of this subpart.

This subpart provides:

- (a) Direction to DoD Components on how to construct the four articles of