

§ 200.106

2 CFR Ch. II (1–1–25 Edition)

binding requirements on recipients and subrecipients through:

(1) Notice and public comment procedures through an approved agency process, including as authorized by this part, other statutes, or regulations; or

(2) Incorporating requirements into the terms and conditions of a Federal award as permitted by Federal statute, regulation, or this part.

§ 200.106 Agency implementation.

The specific requirements and responsibilities of Federal agencies, non-Federal entities, recipients, and subrecipients are set forth in this part. Federal agencies making Federal awards to non-Federal entities must implement the language in subparts C through F of this part in codified regulations unless different provisions are required by Federal statute or are approved by OMB.

§ 200.107 OMB responsibilities.

OMB will review Federal agency regulations and implementation of this part. OMB will provide interpretations of policy requirements and assistance to ensure effective, efficient, and consistent implementation. Any exceptions will be subject to approval by OMB and only with adequate justification from the Federal agency.

§ 200.108 Inquiries.

Inquiries from Federal agencies concerning this part may be directed to OMB. Inquiries from recipients or subrecipients should be addressed to the Federal agency, the cognizant agency for indirect costs, the cognizant agency for audit, or the pass-through entity as appropriate.

§ 200.109 Review date.

OMB will review this part periodically.

§ 200.110 Effective date.

(a) The standards set forth in this part affecting the administration of Federal awards by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this part becomes final.

(b) Existing negotiated indirect cost rates will remain in place until they expire. The effective date of changes to

indirect cost rates must be based upon the date a newly re-negotiated rate goes into effect for the recipient's or subrecipient's fiscal year. Therefore, for indirect cost rates and cost allocation plans, the revisions to this part (as of the publication date for revisions to this guidance) become effective in generating proposals and negotiating a new rate (when the rate is re-negotiated).

§ 200.111 English language.

(a) All Federal financial assistance announcements, applications, and Federal award information should be in the English language and must be in terms of U.S. dollars. However, Federal agencies, recipients, and subrecipients may issue or translate a Federal award or other documents into another language. A Federal agency may translate formal or informal announcements of the availability of Federal funding through a financial assistance program, such as a notice of funding opportunity, when translations may serve to increase the pool of applicants or the participation of a specific community (for example, programs administered in foreign countries where the primary language is not English). Federal agencies must maintain an official controlling English version of the Federal financial assistance announcement and the Federal award, including the terms and conditions. (b) Applications, reports, and official correspondence may be submitted in languages other than English if specified in the notice of funding opportunity or the terms and conditions of the Federal award.

(c) In the event of inconsistency between English and another language, the English language meaning will control. When a significant portion of the recipient's or subrecipient's employees administering a Federal award are not fluent in English, the Federal award should be provided in English and the language(s) with which employees are more familiar.

§ 200.112 Conflict of interest.

Federal agencies must establish conflict of interest policies for Federal awards. A recipient or subrecipient must disclose in writing any potential conflict of interest to the Federal

agency or pass-through entity in accordance with the established Federal agency policies.

§ 200.113 Mandatory disclosures.

An applicant, recipient, or subrecipient of a Federal award must promptly disclose whenever, in connection with the Federal award (including any activities or subawards thereunder), it has credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729–3733). The disclosure must be made in writing to the Federal agency, the agency’s Office of Inspector General, and pass-through entity (if applicable). Recipients and subrecipients are also required to report matters related to recipient integrity and performance in accordance with Appendix XII of this part. Failure to make required disclosures can result in any of the remedies described in §200.339. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

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

§ 200.200 Purpose.

Sections 200.201 through 200.217 prescribe instructions and other pre-award matters to be used by Federal agencies in the program planning, announcement, application, and award processes.

§ 200.201 Use of grants, cooperative agreements, fixed amount awards, and contracts.

(a) *Federal awards.* The Federal agency or pass-through entity must decide on the appropriate type of agreement for a Federal award (for example, a grant, cooperative agreement, subaward, or contract) in accordance with this guidance. See the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–6309).

(b) *Fixed amount awards.* The Federal agency or pass-through entity (see §200.333) may use fixed amount awards (see the definition of *fixed amount*

awards in §200.1) for which the following conditions apply:

(1) The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. See §200.101(b)(4)(ii) for further information on which provisions in subpart E (cost principles) apply to fixed amount awards. The Federal agency or pass-through entity may use fixed amount awards if the project scope has measurable goals and objectives and if accurate cost, historical, or unit pricing data is available to establish a fixed budget based on a reasonable estimate of actual costs. Budgets for fixed amount awards are negotiated with the recipient or subrecipient and the total amount of Federal funding is determined in accordance with the recipient’s or subrecipient’s proposal, available pricing data, and subpart E. Accountability must be based on performance and results, which can be communicated in performance reports or through routine monitoring. There is no expected routine monitoring of the actual costs incurred by the recipient or subrecipient under the Federal award. Therefore, no financial reporting is required. This does not absolve the recipient or subrecipient from the record retention requirements contained in §§200.334 through 200.338; nor does it absolve the recipient or subrecipient of the responsibilities of making records available for review during an audit. See §200.101(b)(5)(i). Payments must be based on meeting specific requirements of the Federal award. Some of the ways in which the Federal award may be paid include, but are not limited to:

(i) In several partial payments. The amount of each payment as well as the “milestone” or event triggering the payment, should be agreed to in advance and included in the Federal award;

(ii) On a unit price basis. The defined unit(s) or price(s) should be agreed to in advance and included in the Federal award; or

(iii) In one payment at the completion of the Federal award.

(2) A fixed amount award must not be used in programs that require cost sharing.