

Key Revisions to Title 2 of the Code of Federal Regulations

General Changes Throughout 2 CFR

- Replaces “grants and agreements” with “Federal financial assistance.”
- Replaces “non-Federal entity (NFE)”, except when the use of NFE is related to statute, with “Recipient” and “subrecipient.”
- Refers to websites such as SAM.gov, CPARS, Grants.gov, and USASpending.gov in place of more general descriptions of websites and systems.

Title 2 Grants and Agreements, Subtitle A, Part One

- **Title 2 changed from “Grants and Agreements” to “Federal financial assistance”.**
- **1.205 Applicability to Federal financial assistance:** “Grants and Agreements” or “other funding instruments” is now consistently referred to as “Federal financial assistance.” This change has been implemented throughout the guidance.
- **1.305 Federal agency responsibilities:** Clarifies Federal agency responsibilities to coordinate with the Council on Federal Financial Assistance (COFFA), the Grants Quality Service Management Office (QSMO), and other governance committees.

Chapter I Office of Management and Budget Guidance

Part 25 Universal Identifier and System of Award Management

- **25.105 Applicability:** Clarifies that second-tier subrecipients and contractors do not need to obtain a UEI and that Federal agency may use discretion when applying the UEI requirements to beneficiary borrowers.
- **25.110 Exceptions to this part:** Federal agencies may exempt foreign organizations and foreign public entities from fully registering on SAM.gov if their award is \$500,000 or less.
- **25.205 Effect of noncompliance with a requirement to obtain a unique entity identifier or register in the SAM:** Clarifies that the UEI requirement does not apply to amendments issued to close or terminate Federal awards.
- **25.300 Recipient requirements of subrecipients:** Clarifies that subrecipients must obtain a UEI prior to receiving a subaward, but are not required to register in SAM.gov.

- **25.400 Definitions:** Combines definitions from multiple sections into a single section.
- **Appendix A to Part 25—Award Term:** Clarifies responsibilities for requirements contained in the award term.

Part 170 Reporting Subaward and Executive Compensation Information

- **170.105 Applicability:** Clarifies that reporting executive compensation does not apply to individual recipients.
- **170.300 Definitions:** Clarifies that terms not defined in part 170 have the same meaning as terms found in 2 CFR part 200, subpart A; and modified the definition of Federal financial assistance in accordance with statute.

Part 175 Award Term for Trafficking in Persons

- **175.105 Statutory requirement:**
 - Aligns with statute and clarifies compliance and certification requirements; revising the notification requirement, specifying that subrecipients, contractors, and subcontractors are subject to requirements.
 - Underscored that if noncompliance with law is detected, recipient must notify the Federal agency and Inspector General.
- Appendix A to Part 170-Award Term: Revised the award term to align with statute and definitions of the award term.

Chapter II Office of Management and Budget Guidance

Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Subpart A Acronyms and Definitions

- **200.0 Acronyms:**
 - Removes 18 acronyms rarely used throughout the guidance: CMIA, COG, COCO, COSO, EPA, ERISA, EUI, FAPIIS, FICA, FTE, PRHP, PTE, REUI, SFA, SNAP, SPOC, TANF, and TFM.
 - Adds four acronyms more commonly used throughout the guidance: FASB, GASB, NOFO, and UEI.
- **200.1 Definitions:**
 - Adds five new definitions: Continuation funding, For-profit organization, Institution of Higher Education, Participant, and Prior approval.
 - Relocates two definitions to relevant sections: Cooperative audit resolution and Cross-cutting audit finding.
 - Removes the definition for Federal awarding agency.
 - Equipment: Increases the threshold for equipment from \$5,000 to \$10,000.

- Improper payment: Simplifies the definition and references Circular A-123, Appendix C for additional information.
- Modified Total Direct Cost: Allows for charging indirect on the first \$50,000 of subawards (increased from the first \$25,000).
- Questioned Cost: Revises the definition with more specific and clarifying policy, including within definitions of Known questioned cost and likely questioned cost.
- Supplies: Increases the threshold for unused supplies from \$5,000 to \$10,000.
- Termination: Clarifies that termination does not include discontinuing a Federal award due to a lack of available funds.

Subpart B General Provisions

- **200.102 Exceptions:** Clarifies roles of OMB and Federal agencies in providing exceptions to the guidance.
- **200.110 Applicability:**
 - Presents the former table in a narrative format for clarity.
 - Clarifies that the Cost principles do not apply to food commodities awarded through grants and cooperative agreements, but do apply to the overall award;
 - Clarifies that certain principles (allowable, necessary, allocable) apply to Fixed Amount Awards.
 - Allows Federal agencies and recipients and subrecipients to use a language other than English in applications, reports and official correspondence.
- **200.113 Mandatory disclosures:** Revised to align with the FAR, such that recipients and subrecipients must promptly disclose credible evidence of a violation of Federal criminal law potentially affecting the Federal award or a violation of the civil False Claims Act; and to provide written disclosure to the agency's Office of Inspector General.

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

- **200.201 Use of grants, cooperative agreements, fixed amount awards, and contracts:**
 - Clarifies that the recipient has a right to unexpended funds when the activities and requirements are determined to be complete in accordance with the terms and conditions of the award.
 - Clarifies the requirements of Fixed Amount awards, including record retention and post award certification requirements; as well as the applicability of specific principles of subpart E (not items of cost), as well as prior approval requirements.

- **200.202 Program planning and design:**
 - Recommends that Federal agencies partner with communities who will be directly involved in or impacted by the programs they develop.
 - Encourages Federal agencies to consider all available data, evidence, and evaluation results from past programs and coordinate with other agencies during program planning and design.
- **200.204 Notices of funding opportunities:**
 - Requires the inclusion of an executive summary provide potential applicants with a clear understanding of the scope and requirements of the program and encourages the use of plain language for Federal award announcements.
 - Encourages Federal agencies to communicate program requirements clearly and reduce the length of program announcements.
 - Specifies that Federal agencies should give due consideration to all eligible applicants in funding announcements and to provide more specific information on the award date and availability period for Federal awards.
- **200.206 Federal agency review of risk posed by applicants:**
 - Establishes the term risk assessment as a standard term and clarified agency requirements to review eligibility qualifications and financial integrity information, such as “Do Not Pay.”
 - Clarifies that agencies may consider any risk criteria pertinent to a program, such as cybersecurity risk or impacts on local jobs and the community. Agencies may modify their risk assessment at any time during the lifecycle of an award.
- **200.209 Certifications and representations:** Requires that recipients exempt from the requirements of 2 CFR part 25 must still complete the certifications and representations by submitting the appropriate assurance form, such as the SF-424B.
- **200.215 Never contract with the enemy:** Clarifies that the requirements of this section also apply to subrecipients.
- **200.217 Whistleblower protections:** Establishes a new section on recipient whistleblower protections, which includes references to the appropriate statutes and requirement to notify employees in writing.

Subpart D Post Federal Award Requirements

- **200.300 Statutory and national policy requirements:** References existing nondiscrimination requirements under applicable law.
- **200.305 Federal payment:** Provides additional flexibilities for recipients when interest bearing accounts are not accessible in a foreign country.
- **200.306 Cost sharing:** Removes the term “matching” from the title, as “matching” falls under the broader term “cost sharing.”

- **200.307 Program Income:** Clarifies each of the three methods for use of program income; and clarifies the use of Program income, for certain closeout costs.
- **200.308 Revision of budget and program plans:**
 - Simplifies the section for greater uniformity by combining construction and non-construction programs.
 - Clarifies that pass-through entities do not need approval of individual subrecipients under all circumstances and agencies should not require approval of a change in a proposed subrecipient unless the inclusion of a subrecipient was a determining factor in the agency's merit review process.
 - Clarifies that no-cost extensions are different from one-time extensions, which an agency is permitted to authorize a recipient to do without prior approval.
- **200.309 Modifications to period of performance:** Clarifies various actions related to modifying an award and defines "renewal award," including that when an agency decides not to continue an award with multiple budget periods, the period of performance should be amended to end at the completion of the currently authorized budget period.
- **200.311 Real property:** Includes a requirement that appraisals must be conducted by an independent appraiser and introduces additional guidance on standards for conducting independent appraisals.
- **200.313 Equipment:** Increases the threshold from \$5,000 to \$10,000, and provides Federal agencies with the flexibility to determine whether disposition requirements are necessary; and Indian Tribes have the ability to follow their own disposition procedures.
- **200.314 Supplies:** Increases threshold from \$5,000 to \$10,000, and clarifies that the requirements for unused supplies apply to the aggregate value of all supply types, and not just like-item supplies.
- **200.317 Procurements by States and Indian tribes:** Permits Indian tribes to follow their own policies and procedures for procurement.
- **200.318 General procurement standards:** Establishes a list of optional provisions for pass-through entities to potentially add to procurement contracts includes a potential reference to hiring preferences and use of Project Labor Agreements.
- **200.319 Competition:**
 - Allows the recipient to use a mechanism for scoring procurement proposals to take into consideration the impacts of the procurement on local jobs.
 - Removes the prohibition on using geographic preference requirements in the evaluation of procurement bids or proposals.
- **200.320 Procurement methods:** Eliminates the requirement for tribal governments to reopen sealed bids for procurement transactions in public.

- **200.321 Contracting with small businesses, minority businesses, women's business enterprises, veteran-owned businesses, and labor surplus area firms:** Includes "veteran-owned business" as one of the types of businesses recipients and subrecipients should consider for procurement contracts under Federal awards.
- **200.324 Contract cost and price:**
 - Encourages recipients to consider potential workforce impacts if procurement transactions will potentially displace public sector employees.
 - Eliminates the requirement for recipients to negotiate profit as a separate element of the price for each contract in which there is no price competition.
- **200.329 Monitoring and reporting program performance:**
 - Encourages Federal agencies to request only information from recipients in reports that is critical for the effective monitoring of the award.
 - Clarifies that measuring customer experience and considering evaluation plans are an important aspect of reporting requirements.
- **200.331 Subrecipient and contractor determinations:** Clarifies that Federal agencies do not have a direct legal relationship with subrecipients and contractors of pass-through entities.
- **200.332 Requirements for pass-through entities:** Clarifies that pass-through entities must confirm that potential subrecipients are not suspended, debarred, or otherwise excluded from receiving Federal funds; and establishes that they must notify the Federal agency overseeing the award if specific conditions are added to a subaward.
- **200.333 Fixed amount subawards:** Increases the threshold for fixed amount subawards from \$250,000 to \$500,000.
- **200.340 Termination:** Underscores that Federal agencies and pass-through entities must clearly state termination provisions in the Terms and Conditions of the Federal award.
- **200.344 Closeout:** Clarifies that recipients must submit a final financial report even when the recipient does not have a final indirect cost rate, but both parties can negotiate to close out the award with a provisional rate to promote prompt closeout.

Subpart E Cost Principles

- **200.407 Prior written approval:**
 - Removes the prior approval requirements for five specific items of cost.
 - Removes prior approval requirements that, while still required in the guidance, were unrelated to specific items of cost or cost-related policy (e.g., equipment, real property).
- **200.413 Direct costs:** Provides examples of direct costs such as cybersecurity, integrated data systems, asset management systems, performance management costs, program evaluation costs.

- **200.414 Indirect costs:**
 - Increased the de minimis indirect rate from 10% to 15%.
 - Allows the recipient and subrecipients to notify OMB of any disputes that occur between them and Federal agencies regarding the negotiated indirect cost rate.
 - Clarifies that pass-through entities must accept all federally negotiated indirect cost rates for subrecipients; and neither Federal agencies nor pass-through entities may require recipients and subrecipients to use a de minimis rate lower than the standard de minimis rate.
 - Clarifies that Federal agencies do not have the authority to set their own indirect rates without justification or support in statute or regulation.
- **200.415 Required certifications:**
 - Clarifies that subrecipients must certify to pass-through entities that financial information submitted to the pass-through entity is complete and accurate.
 - Clarifies that the language provided in the section refers only to the certification associated with the financial report (and not payment requests).
- **200.419 Cost accounting standards:** Removes the requirement for certain IHEs to submit a disclosure statement form (DS-2) containing information on cost accounting standards in support of indirect cost proposals.
- **200.422 Advisory councils:** Provides a new definition of advisory councils; and clarifies that external or internal advisory council costs are permitted as long as they are allowed by statute, the Federal agency, or as an indirect cost where applicable.
- **200.431 Compensation-fringe benefits:** Clarifies that pension plan and post-retirement health plan costs cannot be charged to an award for employees that are not associated with the award.
- **200.432 Conferences:** Allows dependent-care costs if they are associated with participants attending or partaking in program-related conferences; and that conference costs sponsored by another party are also allowable.
- **200.438 Entertainment and prizes:** Moves the policy on prizes, which had been included in a different section, to this section.
- **200.438 Entertainment costs:** Removes the prior approval requirement.
- **200.439 Equipment and other capital expenditures:** Increased the threshold for capital expenditures for special purpose equipment from \$5,000 to \$10,000.
- **200.454 Memberships, subscriptions, and professional activity costs:** Removes the prior approval requirement.
- **200.455 Organization costs:** Clarifies that certain costs related to data, evaluation, and other related organization costs are allowable, with numerous examples of the types of costs commonly associated with data and evaluation.

- **200.456 Participant support costs:**
 - Clarifies that participant costs should be documented by recipients and subrecipients in their written policies and procedures and treated consistently, given their exclusion from Modified Total Direct Costs and the potential ambiguity of numerous costs that could be considered participant support costs.
 - Removes the prior approval requirement.
- **200.467 Selling and marketing costs:** Removes the prior approval requirement.
- **200.470 Taxes:** Removes the prior approval requirement.
- **200.472 Termination and standard closeout costs:** Allows certain administrative costs to be charged to an award for the purpose of closing out the award.

Subpart F Audit Requirements

- **205.501 Audit requirements:** Increases the threshold for single audits or program-specific audits from \$750,000 to \$1 million.
- **200.502 Basis for determining Federal awards expended:** Clarifies that loans and loan guarantees are to retain their Federal character until the end of the period of performance unless otherwise stated in statute or Federal agency regulations.
- **205.513 Responsibilities:** Encourages Federal agencies to engage with the Office of the Inspector General's National Single Audit Coordinator (NSAC) prior to submitting compliance supplement drafts to OMB.
- **200.516 Audit findings:** Requires a description of the reason a dollar amount of known questioned costs was undetermined or otherwise could not be reported.
- **200.518 Major program determination:** Increases Major Program determination to \$1 million and Total Federal Awards Expended to \$34 million.

Appendix I Full Text of Notice of Funding Opportunity

- **Appendix I:** Revises Appendix I to improve the organization and clarity of NOFO requirements, including providing key information at the top of NOFOs, clearly defining what must be included in each section, and provides flexibility to agencies while also providing applicants with a more succinct and organized framework.