

## **Agencies**

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<a href="#">45 CFR 75.112, HHS' conflict of interest policies and disclosure criteria</a>
<a href="#">45 CFR 75.205, adds text at the end of subsection (a, 200.205)to reference suspension and debarment regulations</a>
<a href="#">45 CFR 75.206, adds subsection (c ) (d) to 200.206 to specify the forms required.</a>
<a href="#">45 CFR 75.208, adds new subsections (a) and (b) to 200.208 to reference 45 CFR part 87 and §75.206(d)(2)</a>
<a href="#">45 CFR 75.212, changes “2CFR part 180” to read “2 CFR parts 180 and 376”</a>
<a href="#">45 CFR 75.213, References The Metric Conversation Act and HHS' use of Executive Order 12770</a>
<a href="#">45 CFR 75.214, References lobbying restrictions in 45 CFR part 93</a>
<a href="#">45 CFR 75.215, References provisions for awards to Commercial Organizations</a>
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<a href="#">45 CFR 75.217, References standards for faith-based organizations in 45 CFR part 87</a>
<a href="#">45 CFR 75.305, adds to the end of 2 CFR 200.305 subsection (b)(5)(ii) “(See 45 CFR part 30).”</a>
<a href="#">45 CFR 75.307, Revises 2 CFR 200.307 subsection (c) by including details concerning the Patent and Trademark Laws Amendments, 34 U.S.C. §§200-212, and conditions described under § 75.207 or § 75.215.”</a>
<a href="#">45 CFR 75.308, (1) Add subsections to 2 CFR 200.308: (c)(9) through (11) to include research patient care costs, subaward relations to Simplified Acquisition Threshold, and the disposition of property and equipment. (2) add at the end, new subsection (j) to detail the appropriate authorizing personnel for revisions.</a>
<a href="#">45 CFR 75.309, Articulates the use of funds within a period of performance</a>
<a href="#">45 CFR 75.316, Articulates HHS' policy on property management standards and procedures</a>
<a href="#">45 CFR 75.317, Adopts 2 CFR 200.310 inserting “other” preceding “property owned” in the first sentence</a>
<a href="#">45 CFR 75.318, Adopts 2 CFR 200.311 revising subsection (b): (1) in subparagraph (b), by inserting subparagraph (1) following “Use.”; (2) by adding subparagraph (b)(2)to articulate the use of real property in other federally-sponsored projects. (3) in subparagraph (c), after “is no longer needed”, adding the phrase “as provided in subsection (b).”</a>
<a href="#">45 CFR 75.320, modifies 2 CFR 200.313 by adding, at the end of subsection (c)(4), “subject to the approval of the HHS awarding agency.”</a>
<a href="#">45 CFR 75.322, modifies 2 CFR 200.315 changing the title to read “Intangible property and copyrights.” Adds new subsection (f) to exclude commercial organizations from paragraph (e)(1)</a>
<a href="#">45 CFR 75.327, modifies 2 CFR 200.327 by adding “In certain circumstances, contracts with certain parities are restricted by agencies' implementation of Executive Orders 12549 and 12689.” At the end of subparagraph (h) and adds new subparagraph (1) to articulate the appropriateness of the procurement instrument.</a>
<a href="#">45 CFR 75.329, adopts 2 CFR 200.320 and changes the title.</a>
<a href="#">45 CFR 75.334, adopts 2 CFR 200.325 and adds new subparagraph (d) to reference certificates of authority pursuant to 31 CFR part 223</a>
<a href="#">45 CFR 75.371, adopts 2 CFR 200.338 and adds “(suspension of award activities)” after “suspend” in subparagraph (c) and adds “at 2 CFR part 376” after “regulations” in subparagraph (d)</a>
<a href="#">45 CFR 75.374, adopts 2 CFR 200.341 adding an additional subparagraph(b) to reference additional appeals procedures.</a>
<a href="#">45 CFR 75.381, Adopts 2 CFR 200.343 and in paragraph (g) changes “one year” to “180 calendar days”</a>
<a href="#">45 CFR 75.391, Adopts 2 CFR 200.345 and adds “(See also HHS Claims Collection regulations at 45 CFR part 30.)” at the end of subparagraph (b)</a>
<a href="#">45 CFR 75.407, Adopts 2 CFR 200.407 with the additional subparagraphs (b) and (c) to articulate additional prior approval conditions</a>

[45 CFR 75.439, Adopts 2 CFR 200.439 and amends subsection \(a\) to remove definition numbers](#)

[45 CFR 75.476, Articulates independent research and development costs](#)

[45 CFR 75.501, Adopts 2 CFR 200.501 by adding new subparagraphs \(i\) and \(j\) to articulate the audit options and exemptions for commercial organizations](#)

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## **Reference**

### **Agency for International Development**

#### **§ 700.3 Applicability**

Uniform administrative requirements and cost principles ([Subparts A through E of 2 CFR 200](#) as supplemented by this part) apply to for-profit entities.

#### **§ 700.4 Exceptions**

(a) Consistent with [2 CFR 200.102](#)(b):

(1) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by USAID's Deputy Assistant Administrator, Bureau for Management, or designee, except where

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otherwise required by law or where OMB or other approval is expressly required by this Part. No case-by-case exceptions may be granted to the provisions of [Subpart F](#)—Audit Requirements of this Part.

(2) USAID's Deputy Assistant Administrator, Bureau for Management, or designee is also authorized to approve exceptions, on a class or an individual case basis, to USAID program specific assistance regulations other than those which implement statutory and executive order requirements.

(3) The Federal awarding agency may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB, required by Federal statutes or regulations except for the requirements in Subpart F—Audit Requirements of this part. A Federal awarding agency may apply less restrictive requirements when making awards at or below the simplified acquisition threshold, or when making fixed amount awards as defined in [Subpart A](#)—Acronyms and Definitions of this part, except for those requirements imposed by statute or in Subpart F—Audit Requirements of this part.

#### **§ 700.8 Payment**

(a) Use of resources before requesting advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments. This paragraph is not applicable to such earnings which are generated as foreign currencies.

(b) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows:

(1) Except for situations described in paragraph (2) of this section, USAID does not require separate depository accounts for funds provided to a non-Federal entity or establish any

eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for receipt, obligation and expenditure of funds.

(2) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

#### **§ 700.9 Property Standards**

(a) Real Property. Unless the agreement provides otherwise, title to real property will vest in accordance with [2 CFR 200.311](#).

(b) Equipment. Unless the agreement provides otherwise, title to equipment will vest in accordance with [2 CFR 200.313](#).

#### **§ 700.12 Contract provisions**

(a) The non-Federal entity's contracts must contain the applicable provisions described in [Appendix II to Part 200](#) – Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

(b) All negotiated contracts (except those for less than the simplified acquisition threshold) awarded by the non-Federal entity must include a provision to the effect that the non-Federal Entity, USAID, the Comptroller General of the United States, or any of their duly authorized representatives, must have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

#### **Corporation for National and Community Service**

##### **§ 2205.306 Cost sharing or Matching**

(a) Shared costs or matching funds must meet the criteria of [2 C.F.R. § 200.306\(b\)](#), with the exception of 2 C.F.R. § 200.306(b)(5). Federal funds from other agencies may be used as match or cost sharing as authorized by 42 U.S.C. 12571(e) under the national service laws.

**§ 2205.307 Program Income**

(a) Program income for programs funded under subtitle C of the National and Community Service Act of 1990, as amended, shall be used in accordance with [45 CFR § 2520.55](#).

**§ 2205.332 Fixed amount subawards**

(a) Fixed amount subawards may be made in the manner and in amounts determined under the national service laws, as authorized by the Corporation, without respect to the Simplified Acquisition Threshold.

**§ 2205.414 Indirect (F&A) costs**

(a) Administrative costs for programs funded under subtitles B and C of the National and Community Service Act of 1990, as amended, shall be subject to [45 CFR §§ 2521.95](#) and [2540.110](#).

**Department of Agriculture**

**§415.1 Competition in the awarding of discretionary grants and cooperative agreements.**

(a) Standards for competition. Except as provided in paragraph (d) of this section, awarding agencies shall enter into discretionary grants and cooperative agreements only after competition. An awarding agency's competitive award process shall adhere to the following standards:

(1) Potential applicants must be invited to submit proposals through publications such as the Federal Register, OMB-designated governmentwide Web site as described in [2 CFR 200.203](#), professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means of solicitation. In so doing, awarding agencies should consider the broadest dissemination of project solicitations in order to reach the highest number of potential applicants.



(2) Proposals are to be evaluated objectively by independent reviewers in accordance with written criteria set forth by the awarding agency. Reviewers should make written comments, as appropriate, on each application. Independent reviewers may be from the private sector, another agency, or within the awarding agency, as long as they do not include anyone who has approval authority for the applications being reviewed or anyone who might appear to have a conflict of interest in the role of reviewer of applications. A conflict of interest might arise when the reviewer or the reviewer's immediate family members have been associated with the applicant or applicant organization within the past two years as an owner, partner, officer, director, employee, or consultant; has any financial interest in the applicant or applicant organization; or is negotiating for, or has any arrangement, concerning prospective employment.

(3) An unsolicited application, which is not unique and innovative, shall be competed under the project solicitation it comes closest to fitting. Awarding agency officials will determine the solicitation under which the application is to be evaluated. When the awarding agency official decides that the unsolicited application does not fall under a recent, current, or planned solicitation, a noncompetitive award may be made, if appropriate to do so under the criteria of this section. Otherwise, the application should be returned to the applicant.

(b) Project solicitations. A project solicitation by the awarding agency shall include or reference the following, as appropriate:

(1) A description of the eligible activities which the awarding agency proposes to support and the program priorities;

(2) Eligible applicants;

(3) The dates and amounts of funds expected to be available for awards;

(4) Evaluation criteria and weights, if appropriate, assigned to each;

(5) Methods for evaluating and ranking applications;

(6) Name and address where proposals should be mailed or emailed and submission deadline(s);

(7) Any required forms and how to obtain them;

(8) Applicable cost principles and administrative requirements;

(9) Type of funding instrument intended to be used (grant or cooperative agreement); and

(10) The Catalog of Federal Domestic Assistance number and title.

(c) Approval of applications. The final decision to award is at the discretion of the awarding/approving official in each agency. The awarding/approving official shall consider the ranking, comments, and recommendations from the independent review group, and any other pertinent information before deciding which applications to approve and their order of approval. Any appeals by applicants regarding the award decision shall be handled by the awarding agency using existing agency appeal procedures or good administrative practice and sound business judgment.

(d) Exceptions. The awarding/approving official may make a determination in writing that competition is not deemed appropriate for a particular transaction. Such determination shall be limited to transactions where it can be adequately justified that a noncompetitive award is in the best interest of the Government and necessary to the accomplishment of the goals of the program. Reasons for considering noncompetitive awards may include, but are not necessarily limited to, the following:

(1) Nonmonetary awards of property or services;

- (2) Awards of less than \$75,000;
- (3) Awards to fund continuing work already started under a previous award;
- (4) Awards which cannot be delayed due to an emergency or a substantial danger to health or safety;
- (5) Awards when it is impracticable to secure competition; or
- (6) Awards to fund unique and innovative unsolicited applications.

State means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, and the U.S. Virgin Islands.

3. Title 2 of the Code of Federal Regulations is being amended by adding Part 416 as follows:

#### CHAPTER IV

Part 416– General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments

Authority: 5 U.S.C. 301.

Part 416 – General Program Administrative Regulations for Grants and Cooperative Agreements to State and Local Governments

#### **§416.1 Special Procurement Provisions**

(a) In order to ensure objective contractor performance and eliminate unfair competitive advantage, a prospective contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, request for proposals, contract term and

conditions or other documents for use by a State in conducting a procurement under the USDA entitlement programs specified in [2 CFR section 200.101](#)(e)(4) through (6) shall be excluded from competing for such procurements. Such prospective contractors are ineligible for contract awards resulting from such procurements regardless of the procurement method used. However, prospective contractors may provide States with specification information related to a State procurement under the USDA entitlement programs specified in 2 CFR section 200.101(e)(4) through (6) and still compete for the procurement if the State, and not the prospective contractor, develops or drafts the specifications, requirements, statements of work, invitations for bid, and/or requests for proposals used to conduct the procurement.

(b) Procurements by States under USDA entitlement programs specified in 2 CFR section 200.101(e)(4) through (6) shall be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences except as provided for in [2 CFR section 200.319](#)(b).

## **Department of Defense**

### **§1103.100 Applicability of 2 CFR part 200 to requirements for recipients in DoD Components' terms and conditions**

Effective December 26, 2014, and on an interim basis pending update of the DoD Grant and Agreement Regulations to implement Office of Management and Budget (OMB) guidance published in 2 CFR part 200:

(a) The guidance in 2 CFR part 200 as modified and supplemented by provisions of Subpart B of this part governs the administrative requirements, cost principles, and audit requirements to be included in terms and conditions of DoD Components' new grant and cooperative agreement awards to:

(1) Institutions of higher education, hospitals, and other nonprofit organizations included in the definition of “recipient” in part 32 of the DoD Grant and Agreement Regulations ([32 CFR part 32](#)).

(2) States, local governments, and Indian tribal governments.

(b) The following class deviations from selected provisions of the DoD Grant and Agreement Regulations therefore are approved for DoD Components’ new grant and cooperative agreement awards made on or after December 26, 2014:

(1) Awards to institutions of higher education, hospitals, and other nonprofit organizations included in the definition of “recipient” in part 32 of the DoD Grant and Agreement Regulations (32 CFR part 32) are not subject to the administrative requirements, cost principles, and audit requirements specified in 32 CFR part 32.

(2) Awards to States, local governments, and Indian tribal governments are not subject to the administrative requirements, cost principles, and audit requirements specified in part 33 of the DoD Grant and Agreement Regulations (32 CFR part 33).

(3) References in other parts of the DoD Grant and Agreement Regulations that cite part 32 or part 33 as the source of administrative requirements, cost principles, and audit requirements for awards to the types of recipient entities described in paragraphs (b)(1) and (2) of this section therefore do not apply to those new awards.

(c) Provisions of the DoD Grant and Agreement Regulations other than those listed in paragraph (b) of this section continue to be in effect, with applicability as stated in those provisions.

## **Subpart B-Pre-existing Policies Continuing in Effect During Interim Implementation**

### **§1103.200 Exception for small awards**

For small awards to institutions of higher education, hospitals, and other nonprofit organizations, DoD Components' terms and conditions may apply less restrictive requirements to recipients than the OMB guidance in 2 CFR part 200 specifies, except for requirements that are statutory. This exception maintains long-standing policy established in [32 CFR 32.4](#).

### **§1103.205 Timing of payments made using the reimbursement method**

In DoD Components' awards to institutions of higher education, hospitals, and other nonprofit organizations, the terms and conditions implementing the provisions of [2 CFR 200.305\(b\)\(3\)](#) concerning timing of payments when the reimbursement method is used must specify that the DoD payment office generally makes payment within 30 calendar days after receipt of the request for reimbursement by the office designated to receive the request, unless the request is reasonably believed to be improper. This substitution of "generally makes payment" for "must make payment" maintains long-standing policy established in [32 CFR 32.22\(e\)\(1\)](#).

### **§1103.210 Management of federally owned property for which a recipient is accountable**

In award terms and conditions implementing the guidance in [2 CFR 200.313\(d\)](#) on procedural requirements for a recipient's equipment management system, DoD Components must:

(a) For any award to an institution of higher education, hospital, or other nonprofit organization, broaden the requirements of paragraph 200.313(d) to also apply to any federally owned property for which the recipient is accountable under its award. Doing so maintains long-standing policy established in [32 CFR 32.34\(f\)](#).

(b) For any award to a State, local government, or Indian tribal government (as defined in [32 CFR part 33](#)), specify that the recipient must manage federally owned equipment in accordance with the DoD Components' rules and procedures. Doing so maintains long-standing policy established in paragraph [33.32\(f\)](#) of 32 CFR part 33.

**§1103.215 Intangible property developed or produced under an award or subaward**

In DoD Components' awards to institutions of higher education, hospitals, and other nonprofit organizations, the award terms and conditions implementing the guidance in [2 CFR 200.315\(a\)](#) on intangible property must exclude intangible property developed or produced under an award or subaward. Doing so maintains long-standing policy established in [32 CFR 32.36\(e\)](#).

**§1103.220 Debarment and suspension requirements related to recipients' procurements**

In award terms and conditions implementing the guidance in [2 CFR 200.318\(h\)](#) on awarding contracts only to responsible entities, DoD Components must require recipients to comply with DoD's implementation in [2 CFR part 1125](#) of OMB guidance on nonprocurement debarment and suspension ([2 CFR part 180](#)). Doing so maintains long-standing policy established in those two parts of 2 CFR and in [32 CFR 32.44\(d\)](#), as well as compliance with Executive Orders 12549 and 12689.

**§1103.225 Debt collection**

In award terms and conditions implementing the guidance in [2 CFR 200.345](#) on collection of amounts due, DoD Components must inform recipients that DoD post-award administration offices follow procedures set forth in [32 CFR 22.820](#) for issuing demands for payment and transferring debts for collection, and that a recipient will be informed about specific procedures and timeframes affecting it through the written notices of grants officers' decisions and demands for payment. Doing so maintains long-standing policy established in [32 CFR 32.73\(c\)](#).

## Department of Education

### **§3474.5 How exceptions are made to 2 CFR part 200**

(a) With the exception of [Subpart F](#)—Audit Requirements of 2 CFR part 200, the Secretary of Education, after consultation with OMB, may allow exceptions for classes of Federal awards or non-Federal entities subject to the requirements of this part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this part will be permitted only in unusual circumstances.

(b) Exceptions for classes of Federal awards or non-Federal entities will be published on the OMB Web site at [www.whitehouse.gov/omb](http://www.whitehouse.gov/omb).

(Authority: 20 U.S.C. 1221e-3, 3474, and 2 CFR part 200)

### **§3474.10 Clarification regarding 2 CFR 200.207**

The Secretary or a pass-through entity may, in appropriate circumstances, designate the specific conditions established under [2 CFR §200.207](#) as "high-risk conditions" and designate a non-Federal entity subject to specific conditions established under §200.207 as "high-risk".

(Authority: 20 U.S.C. 1221e-3, 3474, and 2 CFR part 200)

## Department of Energy

### **§ 910.122 Applicability**

(a) For DOE, unless otherwise noted in Part 910, the definition of Non-Federal entity found in 200.69 is expanded to include for-profit organizations in addition to states, local governments, Indian tribes, institutions of higher education (IHE), and nonprofit organizations.

(b) A for-profit organization is defined as one that distributes any profit not reinvested into the business as profit or dividends to its employees or shareholders.



**§ 910.130 Cost sharing (EPACT)**

In addition to the requirements of [2 CFR 200.306](#) the following requirements apply to research, development, demonstration and commercial application activities:

(a) Cost sharing is required for most financial assistance awards for research, development, demonstration and commercial applications activities initiated after the enactment of the Energy Policy Act of 2005 on August 8, 2005. This requirement does not apply to:

(1) An award under the small business innovation research program (SBIR) or the small business technology transfer program (STTR); or

(2) A program with cost sharing requirements defined by other than Section 988 of the Energy Policy Act of 2005 including other sections of the 2005 Act and the Energy Policy Act of 1992.

(b) A cost share of at least 20 percent of the cost of the activity is required for research and development except where:

(1) A research or development activity of a basic or fundamental nature has been excluded by an appropriate officer of DOE, generally an Under Secretary; or

(2) The Secretary has determined it is necessary and appropriate to reduce or eliminate the cost sharing requirement for a research and development activity of an applied nature.

(c) A cost share of at least 50 percent of the cost of a demonstration or commercial application activity is required unless the Secretary has determined it is necessary and appropriate to reduce the cost sharing requirements, taking into consideration any technological risk relating to the activity.

(d) Cost share shall be provided by non-Federal funds unless otherwise authorized by statute.

In calculating the amount of the non-Federal contribution:

(1) Base the non-Federal contribution on total project costs, including the cost of work where funds are provided directly to a partner, consortium member or subrecipient, such as a Federally Funded Research and Development Center;

(2) Include the following costs as allowable in accordance with the applicable cost principles:

(i) Cash;

(ii) Personnel costs;

(iii) The value of a service, other resource, or third party in-kind contribution determined in accordance with [Subpart E – Cost Principles-](#) of 2 CFR 200. For recipients that are for-profit organizations as defined by [2 CFR 910.122](#), the Cost Principles which apply are contained in [48 CFR 31.2](#). See [910.352](#) for further information. ;

(iv) Indirect costs or facilities and administrative costs; and/or

(v) Any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Act);

(3) Exclude the following costs:

(i) Revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(ii) Proceeds from the prospective sale of an asset of an activity; or

(iii) Other appropriated Federal funds.

(iv) Repayment of the Federal share of a cost-shared activity under Section 988 of the Energy Policy Act of 2005 shall not be a condition of the award.

(e) For purposes of this section, the following definitions are applicable:

*Demonstration* means a project designed to determine the technical feasibility and economic potential of a technology on either a pilot or prototype scale.

*Development* is defined in [2 CFR 200.87](#).

*Research* is also defined in 2 CFR 200.87.

## **Subpart D – Post Award Federal Requirements**

### **For For-Profit Entities**

#### **§910.354 Payment**

(a) For-Profit Recipients are an exception to [2 CFR 200.305\(b\)\(1\)](#) which requires that non-Federal entities be paid in advance as long as certain conditions are met.

(b) For For-Profit Recipients who are paid directly by DOE, reimbursement is the preferred method of payment. Under the reimbursement method of payment, the Federal awarding agency must reimburse the non-Federal entity for its actual cash disbursements. When the reimbursement method is used, the Federal awarding agency must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency reasonably believes the request to be improper.

#### **§910.356 Audits**

See Subpart F of this part (Sections [910.500](#) through 910.521) for specific DOE regulations which apply to audits of DOE's For-Profit Recipients. For-Profit entities are an exception to the Single Audit requirements contained in Subpart F of 2 CFR 200 and therefore the regulations contained in 2 CFR 910 Subpart F apply instead.

### **Department of Health and Human Services**

#### **In 45 CFR part 75, HHS incorporates the guidance in 2 CFR 200 with the following adjustments:**

1. Changes “Federal Awarding Agency” to “HHS Awarding Agency” where applicable.
2. Removes titles of sections within the regulatory text to improve readability.

3. Revises the numbering schema to facilitate the inclusion of additional definitions and to facilitate the inclusion of material specific to HHS awards. All such numbering changes are updated throughout the document, including internal references.
4. Includes Appendix IX, “Principles for Determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals,” with appropriate numbering schema.
5. Renumber sections, especially Subpart D, to facilitate the inclusion of material specific to HHS awards.
6. Changes citations to reflect location in 45 CFR Part 75.
7. Inserts reserved sections throughout the regulation to accommodate future changes.
  - (a) HHS adopts 2 CFR 200.0 in 45 CFR 75.1, with the following additional acronyms, added to existing list in appropriate alphabetical order:
    - (1) HHS U.S. Department of Health and Human Services
    - (2) SF 424 Standard Form 424 series and Form Families Application for Federal Assistance
  - (b) HHS adopts the definitions found in [2 CFR 200.2 -200.99](#) in 45 CFR 75.2 with the following changes.
    - (1) Adds the following new definitions:
      - (i) “Awardee.”
      - (ii) “Commercial organization.”
      - (iii) “Departmental Appeals Board.”
      - (iv) “Excess property.”
      - (v) “Expenditure report.”
      - (vi) “Grantee.”
      - (vii) “HHS awarding agency.”

(viii) “Principal Investigator/Program Director/ (PI/PD)..”

(ix) “Prior approval.”

(x) “Project period.”

(xi) “Surplus property.”

(xii) “Suspension of award activities.”

(xiii) “Total Costs.”

(2) Revises the following specific definitions as described below:

(i) Cost sharing or matching to add “This may include the value of allowable third party in-kind contributions, as well as expenditures by the recipient.” after the first sentence.

(ii) Indirect cost rate proposal to add “and Appendix IX” after “Appendix VII”.

(iii) Personal property to add “such as copyrights, patents, or securities” at the end of the definition.

(iv) Recipient to add “usually but not limited to non-Federal entities,” in the first sentence, after “entity,”.

(v) Research and Development to replace “non-Federal entities” with “HHS award recipients”.

(3) All definitions, including the HHS additions, are in alphabetical order.

(c) HHS adopts [2 CFR 200.104](#) in 45 CFR 75.104 by adding a new subsection to note the supersession of 45 CFR parts [74](#) and [92](#) and renumbers accordingly.

(d) HHS adopts [2 CFR 200.106](#) in 45 CFR 75.106 and articulates HHS implementation of 2 CFR 200.

(e) HHS adopts [2 CFR 200.108](#) in 45 CFR 75.108 and articulates to whom changes for HHS regulations should be addressed.

- (f) HHS adopts [2 CFR 200.109](#) in 45 CFR 75.109 to articulate HHS' review period for its regulations.
- (h) HHS adopts [2 CFR 200.112](#) in 45 CFR 75.112 and articulates HHS' establishment of conflict of interest policies and disclosure criteria.
- (i) HHS adopts [2 CFR 200.205](#) in 45 CFR 75.205 and adds text at the end of subsection (a) to reference suspension and debarment regulations.
- (j) HHS adopts [2 CFR 200.206](#) in 45 CFR 75.206 and amends the section heading and adds new subsections (c) and (d) to specify the forms required.
- (k) HHS adopts [2 CFR 200.208](#) in 45 CFR 75.208 and adds after the introductory language new subsections (a) and (b) to reference 45 CFR part 87 and §75.206(d)(2).
- (l) HHS adopts [2 CFR 200.212](#) in 45 CFR 75.212 and changes "[2 CFR part 180](#)" to read "2 CFR parts 180 and 376".
- (m) HHS adds new 45 CFR 75.213 to reference The Metric Conversion Act and HHS' use of Executive Order 12770.
- (n) HHS adds new 45 CFR 75.214 to reference lobbying restrictions in [45 CFR part 93](#).
- (o) HHS adds new 45 CFR 75.215 to reference provisions for awards to Commercial Organizations.
- (p) HHS adds new 45 CFR 75.216 to reference provisions for awards to Federal Agencies.
- (q) HHS adds new 45 CFR 75.217 to reference standards for faith-based organizations in [45 CFR part 87](#).
- (r) HHS adopts [2 CFR 200.305](#) in 45 CFR 75.305 and adds at the end of subsection (b)(5)(ii) "(See 45 CFR part 30).".
- (s) HHS adopts [2 CFR 200.307](#) in 45 CFR 75.307 with the following changes:

(1) revise subsection (c) to include details concerning the Patent and Trademark Laws Amendments, 34 U.S.C. §§200-212, and conditions described under § 75.207 or § 75.215.”.

(t) HHS adopts [2 CFR 200.308](#) in 45 CFR 75.308 with the following changes:

(1) Add subsections (c)(9) through (11) to include research patient care costs, subaward relations to Simplified Acquisition Threshold, and the disposition of property and equipment.

(2) add at the end, new subsection (j) to detail the appropriate authorizing personnel for revisions.

(u) HHS adopts [2 CFR 200.309](#) in 45 CFR 75.309 to articulate the use of funds within the period of performance.

(v) HHS adds 45 CFR 75.316 to articulate HHS’ policy on property management standards and procedures.

(w) HHS adopts [2 CFR 200.310](#) in 45 CFR 75.317 with the insertion of “other” preceding “property owned” in the first sentence.

(x) HHS adopts [2 CFR 200.311](#) in 45 CFR 75.318 by revising subsection (b):

(1) in subparagraph (b), by inserting subparagraph (1) following “Use.”;

(2) by adding subparagraph (b)(2)to articulate the use of real property in other federally-sponsored projects.

(3) in subparagraph (c), after “is no longer needed”, adding the phrase “as provided in subsection (b).”.

(y) HHS adopts [2 CFR 200.313](#) in 45 CFR 75.320, by adding, at the end of subsection (c)(4), “subject to the approval of the HHS awarding agency.”.

(z) HHS adopts [2 CFR 200.315](#) in 45 CFR 75.322 with the following changes:

(1) The title is amended to read “Intangible property and copyrights.”;

- (2) Add new subsection (f) to exclude commercial organizations from paragraph (e)(1).
- (aa) HHS adopts [2 CFR 200.318](#) in 45 CFR 75.327, with the following changes:
- (1) Add, “In certain circumstances, contracts with certain parties are restricted by agencies' implementation of Executive Orders 12549 and 12689. (See 2 CFR part 376.)” at the end of subparagraph (h).
- (2) Add, new subparagraph (l) to articulate the appropriateness of the procurement instrument.
- (bb) HHS adopts [2 CFR 200.320](#) in 45 CFR 75.329 and changes the title.
- (cc) HHS adopts [2 CFR 200.325](#) in 45 CFR 75.334, and adds new subparagraph (d) to reference certificates of authority pursuant to 31 CFR part 223.
- (dd) HHS adopts [2 CFR 200.338](#) in 45 CFR 75.371, with the following changes:
- (1) in subparagraph (c), add “(suspension of award activities)” after “suspend”.
- (2) in subparagraph (d) add “at [2 CFR part 376](#)” after “regulations”.
- (ee) HHS adopts [2 CFR 200.341](#) in 45 CFR 75.374, with an additional subparagraph (b) to reference additional appeals procedures.
- (ff) HHS adopts [2 CFR 200.343](#) in 45 CFR 75.381, and, in subparagraph (g), changes “one year” to “180 calendar days”.
- (gg) HHS adopts [2 CFR 200.345](#) in 45 CFR 75.391, and adds, at the end of subparagraph (b), “(See also HHS Claims Collection regulations at 45 CFR part 30.)”.
- (hh) HHS adopts [2 CFR 200.407](#) in 45 CFR 75.407, with the additional subparagraphs (b) and (c) to articulate additional prior approval conditions.
- (ii) HHS adopts [2 CFR 200.439](#) in 45 CFR 75.439, and amend subsection (a) to remove definition numbers.
- (jj) HHS adds new 45 CFR 75.476 to articulate independent research and development costs.



(kk) HHS adopts [2 CFR 200.501](#) in 45 CFR 75.501, by adding new subparagraphs (i) and (j) to articulate the audit options and exemptions for commercial organizations.

## **Department of Justice**

### **§ 2800.313 Equipment**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, section 808 (42 U.S.C. 3789), creates a special rule for disposition and use of equipment and supplies purchased by funds made available under that Title, which rule, where applicable, supersedes any conflicting provisions of [2 CFR 200.313](#). Section 808 currently provides that such equipment and supplies shall vest in the criminal justice agency or nonprofit organization that purchased the property if such agency or nonprofit certifies to the appropriate State office (as indicated in the statute) that it will use the property for criminal justice purposes, and further provides that, if such certification is not made, title to the property shall vest in the State office, which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.

### **§ 2800.314 Supplies**

Title I of the Omnibus Crime Control and Safe Streets Act of 1968, Public Law 90-351, section 808 (42 U.S.C. 3789) creates a special rule for disposition and use of equipment and supplies purchased by funds made available under that Title, which rule, where applicable, supersedes any conflicting provisions of section [200.314](#). Section 808 currently provides that such equipment and supplies shall vest in the criminal justice agency or nonprofit organization that purchased the property if such agency or nonprofit certifies to the appropriate State office (as indicated in the statute) that it will use the property for criminal justice purposes, and further provides that, if such certification is not made, title to the property shall vest in the State office,

which shall seek to have the property used for criminal justice purposes elsewhere in the State prior to using it or disposing of it in any other manner.

## **Department of Labor**

### **§2900.1 Budget**

In the DOL, approval of the budget as awarded does not constitute prior approval of those items requiring prior approval, including those items the Federal Awarding agency specifies as requiring prior approval. See § [200.407](#) for more information about prior approval. (See [2 CFR 200.8](#))

### **§2900.2 Non-Federal entity**

In the DOL, *Non-Federal entity* means a state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (See [2 CFR 200.69](#))

### **§2900.3 Questioned cost**

In the DOL, in addition to the guidance contained in [2 CFR 200.84](#), a *Questioned cost* means a cost that is questioned by an auditor, Federal Project Officer, Grant Officer, or other authorized Awarding agency representative because of an audit finding : (a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds; (b) Where the costs, at the time of the audit, are not supported by adequate documentation; or (c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

## **Subpart B – General Provisions**

#### **§2900.4 Adoption of 2 CFR Part 200**

Under the authority listed above, the Department of Labor adopts the Office of Management and Budget (OMB) Guidance in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR 200), as supplemented by this part, as the Department of Labor policies and procedures for financial assistance administration. This part satisfies the requirements of [2 CFR 200.110\(a\)](#) and gives regulatory effect to the OMB guidance as supplemented by this part. The DOL also has programmatic and administrative regulations located in 20 and 29 CFR.

### **Subpart C – Pre-Federal Award Requirements and Contents of Federal Awards**

#### **§2900.5 Federal awarding agency review of merit of proposals**

In the DOL, audits and monitoring reports containing findings, issues of non-compliance or questioned costs are in addition to reports and findings from audits performed under Subpart F— Audit Requirements of this Part or the reports and findings of any other available audits; and (See [2 CFR 200.205\(c\)\(4\)](#))

### **Subpart D - Post Federal Award Requirements**

#### **§2900.6 Advance Payment**

In the DOL, except as authorized under [2 CFR 200.207](#), specific conditions, the non-Federal entity must be paid in advance. (See [2 CFR 200.305\(b\)\(1\)](#))

#### **§2900.7 Payment**

In addition to the guidance set forth in 2 CFR 200.305 (b)(2), for Federal awards from the Department of Labor, the non-Federal entity should liquidate existing advances before it requests additional advances.

#### **§2900.8 Cost sharing or matching**

In addition to the guidance set forth in [2 CFR 200.306\(b\)](#), for Federal awards from the Department of Labor, the non-Federal entity accounts for funds used for cost sharing or match within their accounting systems as the funds are expended.

#### **§2900.9 Revision of budget and program plans**

In the DOL, approval of the budget as awarded does not constitute prior approval of those items requiring prior approval, including those items the Federal awarding agency specifies as requiring prior approval (see [2 CFR 200.407](#) and [2 CFR 200.308\(a\)](#))

#### **§2900.10 Prior approval requests**

In addition to the guidance set forth in [2 CFR 200.308\(c\)](#), for Federal awards from the Department of Labor, the non-Federal entity must request prior approval actions at least 30 days prior to the effective date of the requested action.

#### **§2900.11 Revision of budget and program plans including extension of the period of performance**

In addition to the guidance set forth in [2 CFR 200.308\(c\)](#), for Federal awards from the Department of Labor, the non-Federal entity must request prior approval for an extension to the period of performance.

#### **§2900.12 Revision of budget and program plans approval from Grant Officers**

In the DOL, unless otherwise noted in the Grant Agreement, prior written approval must come from the Grant Officer (See [2 CFR 200.308\(d\)](#))

#### **§2900.13 Intangible property**

In addition to the guidance set forth in [2 CFR 200.315\(d\)\(3\)](#), the Department of Labor requires intellectual property developed under a competitive Federal award process to be licensed under a Creative Commons Attribution license. This license allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the grantee.

#### **§2900.14 Financial reporting**

In addition to the guidance set forth in [2 CFR 200.327](#), for Federal awards from the Department of Labor, the DOL awarding agency will prescribe whether the report will be on a cash or an accrual basis. If the DOL awarding agency requires reporting on an accrual basis and the recipient's accounting system is not on the accrual basis, the recipient will not be required to convert its accounting system, but must develop and report such accrual information through best estimates based on an analysis of the documentation on hand.

#### **§2900.15 Closeout**

In addition to the guidance set forth in [2 CFR 200.343\(b\)](#), for Federal awards from the Department of Labor, the non-Federal entity must liquidate all obligations and/or accrued expenditures incurred under the Federal award.

### **Subpart E – Cost Principles**

#### **§2900.16 Prior written approval (prior approval)**

In addition to the guidance set forth in [2 CFR 200.407](#), for Federal awards from the Department of Labor, the non-Federal entity must request prior written approval which should include the timeframe or scope of the agreement and be submitted not less than 30 days before the requested

action is to occur. Unless otherwise noted in the Grant Award, the Grant Officer is the only official with the authority to provide prior written approval (prior approval). Items included in the statement of work or budget as awarded does not constitute prior approval.

#### **§2900.17 Adjustment of negotiated IDC rates**

In the DOL, in addition to the requirements under [2 CFR 200.411\(a\)\(2\)](#), adjustments to indirect cost rates resulting from a determination of unallowable costs being included in the rate proposal may result in the reissuance of negotiated rate agreement.

#### **§2900.18 Contingency provisions**

In addition to the guidance set forth in [2 CFR 200.433\(c\)](#), for Federal awards from the Department of Labor, excepted citations include [2 CFR 200.333](#) Retention requirements for records, and [2 CFR 200.334](#) Requests for transfers of records.

#### **§2900.19 Student activity costs**

In the Dol, the provisions of [2 CFR 200.469](#) apply unless the activities meet a program requirement and have prior written approval from the Federal awarding .

### **Subpart F – Audit Requirements**

#### **§2900.20 Federal Agency Audit Responsibilities**

In the DOL, in addition to [2 CFR 200.513](#) the department employs a collaborative resolution process with non-federal entities.

(a) Department of Labor Cooperative Audit Resolution Process

The DOL official(s) responsible for resolution shall promptly evaluate findings and recommendations reported by auditors and the corrective action plan developed by the recipient to determine proper actions in response to audit findings and recommendations. The process of audit resolution includes at a minimum an initial determination, an informal resolution period, and a final determination.

(1) Initial determination. After the conclusion of any comment period for audits provided the recipient/contractor, the responsible DOL official(s) shall make an initial determination on the allowability of questioned costs or activities, administrative or systemic findings, and the corrective actions outlined by the recipient. Such determination shall be based on applicable statutes, regulations, administrative directives, or terms and conditions of the grant/contract award instrument.

(2) Informal resolution. The recipient/contractor shall have a reasonable period of time (as determined by the DOL official(s) responsible for audit resolution) from the date of issuance of the initial determination to informally resolve those matters in which the recipient/contractor disagrees with the decisions of the responsible DOL official(s).

(3) Final determination. After the conclusion of the informal resolution period, the responsible DOL official(s) shall issue a final determination that:

(i) As appropriate, indicate that efforts to informally resolve matters contained in the initial determination have either been successful or unsuccessful;

(ii) Lists those matters upon which the parties continue to disagree;

(iii) Lists any modifications to the factual findings and conclusions set forth in the initial determination;

(iv) Lists any sanctions and required corrective actions; and

(v) Sets forth any appeal rights.

(4) Time limit. Insofar as possible, the requirements of this section should be met within 180 days of the date the final approved audit report is received by the DOL official(s) responsible for audit resolution.

#### **§2900.21 Management decision**

In the DOL, ordinarily, a management decision is issued within six months of receipt of an audit from the audit liaison of the Office of the Inspector General. The pass-through entity responsible for issuing a management decision must do so within twelve months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and should begin corrective action no later than upon receipt of the audit report. (See [2 CFR 200.521\(d\)](#))

#### **Department of State**

#### **§ 600.101 Applicability**

(a) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR Part 200 (Subparts A through F) shall apply to all non-Federal entities, except as noted below.

(b) Subparts A through E of 2 CFR Part 200 shall apply to all foreign organizations not recognized as Foreign Public Entities and Subparts A through D of 2 CFR Part 200 shall apply to



all U.S. and foreign for-profit entities, except where the Federal awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government. The Federal Acquisition Regulation (FAR) at [48 CFR Part 30](#), Cost Accounting Standards, and [Part 31](#) Contract Cost Principles and Procedures takes precedence over the cost principles in Subpart E for Federal awards to U.S. and foreign for-profit entities. Thus, this part gives regulatory effect to the OMB guidance and supplements the guidance as needed for the Department.

#### §600.205 Federal awarding agency review of risk posed by applicants.

Use of [2 CFR 200.205](#) (the DOS review of risk posed by applicants) is required for all selected competitive and non-competitive awards.

#### **§600.315 Intangible property**

If the DOS obtains research data solely in response to a FOIA request, the DOS may charge the requester fees consistent with the FOIA and applicable DOS regulations and policies.

#### **Subpart E – Cost Principles.**

#### **§600.407 Prior written approval (prior approval)**

The non-Federal entity must seek the prior written approval for indirect or special or unusual costs prior to incurring such costs where DOS is the cognizant agency.

#### **Department of the Interior**

#### **§ 1402.101 To whom does this part apply?**

This part, and through it 2 CFR 200 Subparts A through E and Part 1402 applies to any non-Federal entity that applies for, receives, operates, or expends funds from a DOI Federal

financial assistance award, cooperative agreement or grant after the effective date of December 26, 2014.

**§1402.102 Do DOI financial assistance policies include any exceptions to 2 CFR 200?**

This chapter applies to Federally recognized Indian tribal governments, except for those awards made pursuant to the authority of the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 88 Stat. 2204), as amended. However, Sec. 9 of P.L. 93-638 does provide for use of a grant agreement or cooperative agreement when mutually agreed to by the Secretary of the Interior and the tribal organization involved.

**Department of Transportation**

**§ 1201.80 Program income**

Notwithstanding [2 CFR 200.80](#), program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. (See [2 CFR 200.77](#) Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, taxes, special assessments, levies, and fines raised by a grantee and subgrantee, and interest earned on any of them.

**§1201.206 Standard application requirements**

The requirements of [2 CFR 200.206](#) do not apply to formula grant programs, which do not require applicants to apply for funds on a project basis.

**§1201.313 Equipment**

Notwithstanding [2 CFR 200.313](#), subrecipients of States shall follow such policies and procedures allowed by the State with respect to the use, management and disposal of equipment acquired under a Federal award.

**§1201.317 Procurements by States**

Notwithstanding [2 CFR 200.317](#), subrecipients of States shall follow such policies and procedures allowed by the State when procuring property and services under a Federal award.

**§1201.327 Financial reporting**

Notwithstanding [2 CFR 200.327](#), recipients of FHWA and NHTSA financial assistance may use FHWA, NHTSA or State financial reports.

**Department of Treasury**

**§1000.306 Cost sharing or matching**

Notwithstanding [2 CFR 200.306\(e\)](#), Low Income Taxpayer Clinic grantees may use the rates found in 26 U.S.C. 7430 so long as:

- (a) The grantee is funded to provide controversy representation;
- (b) The services are provided by a qualified representative, which includes any individual, whether or not an attorney, who is authorized to represent taxpayers before the Internal Revenue Service or an applicable court;
- (c) The qualified representative is not a student; and
- (d) The qualified representative is acting in a representative capacity and is advocating for a taxpayer.

### **§1000.336 Access to records**

The right of access under [2 CFR part 200.336](#) shall not extend to client information held by attorneys or federally authorized tax practitioners under the Low Income Taxpayer Clinic program.

## **Environmental Protection Agency**

### **§1500.2 Applicability**

Uniform administrative requirements and cost principles (Subparts A through E of 2 CFR Part 200 as supplemented by this part) apply to foreign public entities or foreign organizations, except where EPA determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government.

### **§1500.3 Exceptions**

Consistent with [2 CFR Part 200.102\(b\)](#):

(a) In the EPA, the Director, Office of Grants and Debarment or designee, is authorized to grant exceptions on a case-by-case basis for non-Federal entities.

(b) The EPA Director or designee is also authorized to approve exceptions, on a class or an individual case basis, to EPA program specific assistance regulations other than those which implement statutory and executive order requirements.

### **§1500.5 Fixed Amount Awards**

In the EPA, programs awarding fixed amount awards will do so in accordance with guidance issued from the Office of Grants and Debarment. (See [2 CFR Part 200.201\(b\)](#))

### **§1500.6 Retention requirements for records**

(a) In the EPA, some programs require longer retention requirements for records by statute.

(b) When there is a difference between the retention requirements for records of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards ([2 CFR Part 200.333](#)) and the applicable statute, the non-federal entity will follow to the retention requirements for records in the statute.

#### **§1500.7 Program Income**

(a) Governmental revenues. Permit fees are governmental revenue and not program income. (See [2 CFR Part 200.307\(c\)](#))

(b) Use of Program Income. The default use of program income for EPA awards is addition. The program income shall be used for the purposes and under the conditions of the assistance agreement. (See 2 CFR Part 200.307(e)(2))

(c) Brownfields Revolving Loan. To continue the mission of the Brownfields Revolving Loan fund, recipients may use grant funding prior to using program income funds generated by the revolving loan fund. Recipients may also keep program income at the end of the assistance agreement as long as they use these funds to continue to operate the revolving loan fund or some other brownfield purpose as outlined in their closeout agreement.

#### **§1500.8 Revision of budget and program plans**

Pre-award Costs. EPA award recipients may incur allowable project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of EPA. All costs incurred before EPA makes the award are at the recipient's risk. EPA is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs.

#### **Procurement Standards**

### **§1500.9 General Procurement Standards**

(a) Payment to consultants. EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (Recipient's may, however, pay consultants more than this amount with non EPA funds.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices. Contracts with firms for services which are awarded using the procurement standards in Subpart D of 2 CFR Part 200 are not affected by this limitation.

(b) Subawards with firms for services which are awarded using the procurement standards in [2 CFR Part 200.317](#) through [2 CFR Part 200.326](#) are not affected by this limitation.

### **§1500.10 Use of the same architect or engineer during construction**

(a) If the recipient is satisfied with the qualifications and performance of the architect or engineer who provided any or all of the facilities planning or design services for a waste-water treatment works project and wishes to retain that firm or individual during construction of the project, it may do so without further public notice and evaluation of qualifications, provided:

(1) The recipient received a facilities planning (Step 1) or design grant (Step 2), and selected the architect or engineer in accordance with EPA's procurement regulations in effect when EPA awarded the grant; or

(2) The award official approves noncompetitive procurement under [2 CFR Part 200.320\(f\)](#) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or

(3) The recipient attests that:

(i) The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a subaward for services during construction; and

(ii) The firm or individual was selected for facilities planning or design services in accordance with procedures specified in this section.

(iii) No employee, officer or agent of the recipient, any member of their immediate families, or their partners have financial or other interest in the firm selected for award; and

(iv) None of the recipient's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to subawards.

(b) However, if the recipient uses the procedures in paragraph [2 CFR 1500.10](#) (a) of this section to retain an architect or engineer, any Step 3 subawards between the architect or engineer and the grantee must meet all of the other procurement provisions in [2 CFR Part 200.317](#) through [2 CFR Part 200.326](#).

#### **National Aeronautics and Space Administration**

##### **§1800.3 Applicability**

(a) This part establishes policies and procedures for grants and cooperative agreements awarded by NASA to non-Federal entities, commercial firms (when cost sharing is not required), and foreign organizations as allowed by [2 CFR 200.101](#) Applicability.

(b) Throughout this Part, the term “grant” includes “cooperative agreement” unless otherwise indicated.

(c) When commercial firms are required to provide cost sharing pursuant to [2 CFR 200.306](#), Cost Sharing, the terms and conditions of [14 CFR Part 1274](#) apply.

(d)(1) In general, research with foreign organizations will not be conducted through grants, but instead will be accomplished on a no-exchange-of-funds basis. In these cases, NASA enters into agreements undertaking projects of international scientific collaboration. NASA policy on performing research with foreign organizations on a no-exchange-of-funds basis is set forth at NASA FAR Supplement (NFS) 1835.016-70. In rare instances, NASA may enter into an international agreement under which funds will be transferred to a foreign recipient.

(2) Grants to foreign organizations are made on an exceptional basis only. Awards require the prior approval of the Headquarters Office of International and Interagency Relations and the Headquarters Office of the General Counsel. Requests to award grants to foreign organizations are to be coordinated through the Office of Procurement, Program Operations Division.

(3) The requirements of this section do not apply to the purchase of supplies or services from non-U.S. sources by grant to U.S. recipients, when necessary to support research efforts.

**§1800.315 Intangible property**

(f) Due to the substantial involvement on the part of NASA under a cooperative agreement, intellectual property may be produced by Federal employees and NASA contractors tasked to perform NASA assigned activities. Title to intellectual property created under the cooperative agreement by NASA or its contractors will initially vest with the creating party. Certain rights may be exchanged with the recipient.

**National Archives and Records Administration**

**§2600.101 Indirect costs exception to 2 CFR 200.414**



As approved by the Archivist of the United States, the National Archives does not permit grant recipients to use allocated funds from NARA or NHPRC for indirect costs. Grant recipients may use cost sharing to cover indirect costs instead. NARA's policies on indirect costs are located at <http://www.archives.gov/nhprc>, and are included in grant opportunity announcements.

(Authority: 44 U.S.C. 2103-04, 2 CFR part 200)

### **Small Business Administration**

#### **§2701.74 Pass-through entity**

SBA will only make awards to pass-through entities where expressly authorized by statute.

#### **§2701.92 Subaward**

SBA will only permit pass-through entities to make awards to subrecipients where expressly authorized by statute.

#### **§2701.93 Subrecipient**

SBA will only permit non-Federal entities to receive subawards where expressly authorized by statute.

#### **§2701.414 Indirect (F&A) Costs**

(a) When determining whether a deviation from a negotiated indirect cost rate is justified, SBA will consider the following factors:

(1) The degree to which a non-Federal entity has been able to defray its overhead expenses via those indirect costs it has recovered under other, concurrent SBA awards;

(2) The amount of funding that must be devoted to conducting program activities in order for a project to result in meaningful outcomes; and

(3) The amount of project funds that will remain available for conducting program activities after a negotiated rate is applied.

(b) After conducting the analysis required in paragraph (a) above, the head of each SBA grant program office will determine in writing whether there is sufficient justification to deviate from a negotiated indirect cost rate.

(c) Where SBA determines that deviation from a negotiated rate is justified, it will provide a copy of that determination to OMB and will inform potential applicants of the deviation in the corresponding funding announcement.

**§2701.503 Relation to other audit requirements**

Non-Federal entities that are not subject to the requirements of the Single Audit Act and that are performing projects under SBA awards will be required to submit copies of their audited financial statements for their most recently completed fiscal year. Costs associated with the auditing of a non-Federal entity's financial statements may be included in its negotiations for an indirect cost rate agreement in accordance with [2 CFR 200.425](#).