

OFFICE OF MANAGEMENT AND BUDGET

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RIN 2501-AE01

NATIONAL SCIENCE FOUNDATION

2 CFR Parts 2500 and 2520

RIN 3145-AA75

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

2 CFR Part 2600

RIN 3095-AC31

SMALL BUSINESS ADMINISTRATION

2 CFR Parts 2700 and 2701

RIN 3245-AI70

DEPARTMENT OF JUSTICE

2 CFR Parts 2800 and 2867

RIN 1105-AB81

DEPARTMENT OF LABOR

2 CFR Parts 2900 and 2998

RIN 1291-AA53

DEPARTMENT OF HOMELAND SECURITY

2 CFR Parts 3000, 3001 and 3002

RIN 1601-AB23

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

2 CFR Parts 3185, 3186, and 3187

RIN 3137-AA31

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

2 CFR Parts 3254, 3255, and 3256

RIN 3135-AA36

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

2 CFR Parts 3369, 3373, and 3374

RIN 3136-AA47

DEPARTMENT OF EDUCATION

2 CFR Parts 3474 and 3485

RIN 1801-AA30

EXPORT IMPORT BANK

2 CFR Part 3513

RIN 3048-AA03

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

2 CFR Part 3603

RIN 3201-AA03

PEACE CORPS

2 CFR Parts 3700 and 3701

RIN 0420-AA37

ELECTION ASSISTANCE COMMISSION

2 CFR Parts 5800 and 5801

RIN 3265-AA00

GULF COAST ECOSYSTEM RESTORATION COUNCIL

2 CFR Part 5900

RIN 3600-AA05

FEDERAL COMMUNICATIONS COMMISSION

2 CFR Part 6000

RIN 3060-AM35

CONSUMER PRODUCT SAFETY COMMISSION

2 CFR Part 6100

RIN 3041-AE26

DELTA REGIONAL AUTHORITY

2 CFR Part 6200

RIN 4718-AA00

APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

2 CFR Part 6300

RIN 3139-AA07

MARINE MAMMAL COMMISSION

2 CFR Part 6400

RIN 0415-AA00

MILLENNIUM CHALLENGE CORPORATION

2 CFR Part 6500

RIN 0414-AA00

NATIONAL CREDIT UNION ADMINISTRATION

2 CFR Part 6600

RIN 3133-AG07

Regulation for Federal Financial Assistance

AGENCY: Office of Federal Financial Management, Office of Management and Budget; Department of Health And Human Services; Department of Agriculture; Department of State;

Agency for International Development; Department of Veterans Affairs; Department of Energy; Department of Treasury; Department of Defense; Department of Transportation; Department of Commerce; Department of the Interior; Environmental Protection Agency; U.S. International Development Finance Corporation; National Aeronautics and Space Administration; U.S. Agency for Global Media; Nuclear Regulatory Commission; Corporation for National and Community Service; Social Security Administration; Department of Housing and Urban Development; National Science Foundation; National Archives and Records Administration; Small Business Administration; Department of Justice; Department of Labor; Department of Homeland Security; Institute of Museum and Library Services; National Endowment for the Arts; National Endowment for the Humanities; Department of Education; Export Import Bank; Executive Office of the President; Office of National Drug Control Policy; Peace Corps; Election Assistance Commission; Gulf Coast Ecosystem Restoration Council; Federal Communications Commission; Consumer Product Safety Commission; Delta Regional Authority; Appraisal Subcommittee of the Federal Financial Institutions Examination Council; Marine Mammal Commission; Millennium Challenge Corporation; National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: The Office of Management and Budget (OMB) proposes to revise the Guidance for Federal Financial Assistance to improve government-wide policies and requirements related to the management of grants, cooperative agreements, and other forms of assistance. OMB is proposing revisions that would improve transparency, accountability, and oversight for Federal awards across the Federal Government. This includes ensuring that American tax dollars are not wasted or misused, activities performed under Federal awards are consistent with law and policy, and recipients are held accountable when they fail to meet relevant standards. The revisions also aim to ensure that basic American principles of equality and equal opportunity are upheld throughout all stages of the award making process and that unlawful discrimination is no longer permitted. Proposed changes also include providing further clarification on the regulatory status of the OMB requirements and on the process for future updates to the government-wide requirements. Finally, OMB also

proposes changes to reduce recipient burden. The listed Federal grant-making agencies propose conforming changes to their respective adopting regulations, or, in the case of some agencies and other entities, establishing new adopting regulations or policies. The proposed changes reflect the administration's commitment to transparency, accountability, and proper oversight for the Federal grantmaking process. The proposed regulations seek to ensure that American tax dollars are ultimately used to serve the needs of the American public.

DATES: Comments are due on or before July 13, 2026. Late comments will be considered only to the extent practicable.

ADDRESSES: Comments on this proposal must be submitted electronically before the comment closing date to www.regulations.gov. In submitting comments, please search for recent submissions by OMB to find docket *OMB-2026-0034*, which includes the full text of the proposed revisions and submit comments there. Please provide clarity as to the section of the regulation that each comment is referencing by beginning each comment with the relevant section number in brackets. *For example; if the comment is on 2 CFR 200.414, include the following before the comment [200.414].*

Public comments received by OMB and Federal agencies will be posted at www.regulations.gov and be a matter of public record. Accordingly, please do not include any confidential business information or personal privacy information in your comments.

FOR FURTHER INFORMATION CONTACT: Andrew Reisig or Joel Savary at the OMB Office of Federal Financial Management via email at MBX.OMB.Grants@OMB.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

The Office of Management and Budget (OMB) proposes to revise several parts of the OMB Guidance for Federal Financial Assistance located in title 2 of the Code of Federal Regulations (CFR), subtitle A, to improve and clarify government-wide policies and requirements related to the management of Federal financial assistance including grants and cooperative agreements. In 2 CFR subtitle B, the listed Federal agencies also propose conforming changes to their respective implementing regulations for the OMB policy requirements in subtitle A. As explained in further detail below, OMB proposes revising 2 CFR for reasons including to: (1) improve transparency,

accountability, and oversight for use of Federal taxpayer dollars; (2) clarify the status of OMB's policies and requirements set forth in the 2 CFR regulatory text as an OMB regulation; and (3) reduce recipient burden.

Transparency, Accountability, and Oversight. The overarching goal of OMB's proposed revisions is to improve transparency, accountability, and oversight for how Federal taxpayer dollars are used in the context of Federal grantmaking.¹ It is essential for the Federal Government to provide more oversight over the design and implementation of Federal programs to prevent wasteful spending and misuse or mismanagement of Federal funds.

Although Federal spending through grants and other types of Federal financial assistance has grown exponentially since the initial establishment of OMB's policies in earlier Circulars and 2 CFR, corresponding policies capable of ensuring transparency, accountability, and oversight for this increased level of spending remain deficient in the current regulatory text. As a result, Federal financial assistance programs, and the activities performed under Federal awards, have not always remained properly aligned with core purposes authorized by law, nor served the needs of the American public as intended.

This lack of transparency, accountability, and proper oversight became increasingly clear between 2021 and 2024. Federal awards were often used during those years to promote a "woke" policy agenda that did not reflect the values of the vast majority of the American public.² For example, Federal programs and funding opportunities were designed to advance unlawful identity-based "Diversity, Equity, and Inclusion" (DEI) policies and preferences across the country.³ These policies were inconsistent with basic American values and civil rights laws, including the equal protection principles of the U.S. Constitution.⁴

¹ Executive Order (E.O.) 14332, 90 FR 38929, "Improving Oversight of Federal Grantmaking" (Aug. 7, 2025); White House Fact Sheet of Aug. 7, 2025, "President Donald J. Trump Stops Wasteful Grantmaking;" and White House Fact Sheet of Feb. 18, 2025, "President Donald J. Trump Requires Transparency for the American People About Wasteful Spending."

² E.O. 14332, sec. 1.

³ See, e.g., David Ditch, Mike Gonzalez, Hans von Spakovsky and Erin Dwinell, "President Biden's 'Equity Action Plans' Reveal Radical, Divisive Agenda." Heritage Foundation Background No. 3710, May 25, 2022 (hereinafter "Ditch I").

⁴ E.O. 14151 of January 20, 2025, "Ending Radical and Wasteful Government DEI Programs and Preferencing;" E.O. 14173 of January 21, 2025, "Ending Illegal Discrimination and Restoring Merit-

They were also misaligned in many cases with underlying public purposes authorized by law.⁵ Collectively, these policies wasted a great amount of taxpayer resources and caused great harm to public trust in government.

The White House Fact Sheet of August 7, 2025, describes examples of the types of wasteful spending that occurred as a result of such policies. For example, Federal grants funded unlawful DEI practices,⁶ various anti-American ideologies in American education,⁷ non-replicable and highly misleading studies,⁸ labs engaged in gain-of-function research,⁹ and AI-powered social media censorship tools.¹⁰ More recently, another White House Fact Sheet of January 8, 2026 provided examples of the rampant and pervasive problem of fraud in the United States, including under assistance programs in Minnesota.¹¹

Another example of wasteful spending is provided by a 2023 report from Office of Inspector General for the Department of Homeland Security (DHS). That report found that recipients of Federal awards from the Federal Emergency Management Agency (FEMA) potentially misused funds to provide services for illegal immigrants.¹² Such potential abuse of taxpayer funds highlights the need for proper oversight of taxpayer dollars.

In another prominent example, prior to this administration, far-left activists hijacked the critical work done by the U.S. President's Emergency Plan for

AIDS Relief (PEPFAR), which was established to respond to the AIDS crisis in Africa. Due to wasteful spending, PEPFAR became a left-wing foreign aid entitlement that attempted to promote abortion and gender ideology. Additionally, an August 2025 report from the Heritage Foundation noted that, according to the U.S. House Foreign Affairs Committee, billions of dollars in overhead and program charges flow to nongovernmental organizations (NGOs) and contractors in Washington, DC rather than providing direct humanitarian aid; and insufficient oversight has resulted in significant waste of taxpayer resources.¹³

An additional example is provided by a 2024 report from the U.S. Senate Committee on Commerce, Science, and Transportation regarding the growing failure of objectivity at the National Science Foundation (NSF) during the previous administration.¹⁴ That report found that out of a sample of over three thousand grants, more than ten percent—totaling over two billion dollars in Federal funding—went to “questionable projects that promoted diversity, equity, and inclusion (DEI) tenets or pushed onto science neo-Marxist perspectives about enduring class struggle.” The report also found that, by 2024, over a quarter of new grants made by NSF (27 percent) directed funding to DEI initiatives and other far-left perspectives. This marked a huge proportional increase over the course of only three years from the 0.29 percent of new grants made by NSF with a similar focus in 2021.¹⁵ This is just a small sample of many examples across the Federal Government of wasteful spending and other misuse and mismanagement of Federal funds.

Scarce Federal taxpayer dollars should be directed exclusively to achieving results for the American people. Wasteful and divisive activities unrelated to core purposes of Federal

grant programs should not be subsidized with taxpayer dollars. Grantmaking practices resulting in wasteful spending that became prevalent during the previous administration can only be stopped through adherence to strong internal controls at Federal agencies and enhanced oversight regarding how Federal dollars are spent.

The Federal Government must provide more oversight and transparency regarding how Federal funds are used in grantmaking to avoid the recurrence of similar issues in the future. Under the proposal described in this document, Federal agencies must return to designing assistance programs and award activities to align with essential public purposes authorized by law. Effective oversight also includes following Executive Branch policies that eliminate various kinds of wasteful spending that occurred in previous years, such as unlawful DEI mandates and other unnecessary add-on activities that increase project costs and complexity without serving the underlying public purpose of the award.¹⁶ The proposed reforms are necessary to ensure greater accountability for use of public funds, and that every taxpayer dollar the Federal Government spends either improves American lives or advances American interests.¹⁷

Clarification of status of regulatory text. A second objective of this rulemaking is to clarify the status of the 2 CFR regulatory text as an OMB regulation. The proposed revisions align with OMB's statutory authority to provide overall direction and leadership to Federal agencies on financial management matters by establishing financial management policies and requirements. See 31 U.S.C. 503(a)(2). Additional authorities for OMB's proposed revisions are set forth below.

Reducing recipient burden. A third and final objective of this rulemaking is to reduce recipient burden. For example, rather than needing to focus extensive efforts and resources on DEI mandates or other unnecessary add-on requirements frequently included in funding opportunities in previous years, under the proposed version of the regulation recipients will be able to restore focus on efficient project delivery and actually achieving the basic public purposes of support authorized in law.

OMB also proposes a number of additional revisions throughout chapters I and II of subtitle A of 2 CFR.

Based Opportunity;” E.O. 14281 of April 23, 2025, “Restoring Equality of Opportunity and Meritocracy.”

⁵ E.O. 14332, sec. 1; see also, e.g., David Ditch, “Funding Leftism, Making Power Grabs: The Biden Administration's Bureaucratic Radicalism.” Heritage Foundation, Apr. 18, 2024 (hereinafter “Ditch II”).

⁶ E.O. 14332, sec. 1.

⁷ E.O. 14332, sec. 1.

⁸ E.O. 14303 of May 23, 2025, “Restoring Gold Standard Science.”

⁹ White House Fact Sheet of Aug. 7, 2025. See also E.O. 14292 of May 5, 2025, “Improving the Safety and Security of Biological Research;” and White House Fact Sheet of May 5, 2025, “President Donald J. Trump Achieves Improved Safety and Security of Biological Research.”

¹⁰ White House Fact Sheet of Aug. 7, 2025. See also E.O. 14149 of Jan. 20, 2025, “Restoring Freedom of Speech and Ending Federal Censorship;” and E.O. 14319 of Jul. 23, 2025, “Preventing ‘Woke AI’ in the Federal Government.”

¹¹ White House Fact Sheet of Jan. 8, 2026, “President Donald J. Trump Establishes New Department of Justice Division for National Fraud Enforcement.” See also White House Fact Sheet of Jan. 2, 2026, “Here's What the Trump Administration Is Doing to Crush Minnesota's Fraud Epidemic;” DOJ Press Release of Nov. 24, 2025, “Feeding Our Future Defendant Sentenced to 10 Years in Prison.”

¹² DHS Office of Inspector General, “FEMA Should Increase Oversight to Prevent Misuse of Humanitarian Relief Funds,” DHS OIG–23–20.

¹³ Max Primorac, PEPFAR: From AIDS Relief to Leftwing Funding Apparatus,” Heritage Foundation, Aug. 11, 2025. Available at: <https://www.heritage.org/global-politics/report/pepfar-aids-relief-leftwing-funding-apparatus>. See also Tim Meisburger, U.S. Foreign Aid Used to Push Abortion, Gender Ideology Around the World. Heritage Foundation, Jun. 8, 2023. Available at: <https://www.heritage.org/global-politics/commentary/us-foreign-aid-used-push-abortion-gender-ideology-around-the-world>.

¹⁴ U.S. Senate Committee on Commerce, Science, and Transportation, “D.E.I. Diversion. Extremism. Ideology. How the Biden-Harris NSF Politicized Science.” (2024). Available at <https://www.commerce.senate.gov/services/files/4BD2D522-2092-4246-91A5-58EEF99750BC#>.

¹⁵ Subsequent to this report, NSF took action during this Administration to review its award portfolio and, to the extent permitted by law, ensure alignment with Federal agency priorities.

¹⁶ See, e.g., E.O. 14332; and White House Fact Sheets of Aug. 7, 2025 and Feb. 18, 2025.

¹⁷ E.O. 14332, sec. 1.

OMB summarizes the proposed changes in this preamble. In proposing changes, OMB aimed to maintain the existing structure of the 2 CFR guidance consistent with earlier iterations, including, for example, the structure of parts, subparts, and section numbering.

Plain Language Summary: A plain language summary of this rule may be found at <https://www.regulations.gov/>.

II. Background and Regulatory History

The Office of Management and Budget (OMB) has assisted every modern President in ensuring that the President's priorities, consistent with applicable law, are appropriately accounted for in government-wide grant management policies and agency grant-making decisions. In service of that goal, in 1958, the Bureau of the Budget, OMB's predecessor, first issued Circular A-21, "Cost Principles for Educational Institutions." In 1968, the Bureau of the Budget first issued Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments." In 1976, OMB first issued both Circular A-110, "Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations;"¹⁸ and Circular A-122, "Cost Principles for Non-Profit Organizations." All of these Circulars were repeatedly revised in the decades following their initial issuance. Other now-superseded OMB Circulars providing requirements related to grants administration included Circular A-89, "Federal Domestic Assistance Program Information;" and Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."¹⁹

Between 2012 and 2013, OMB worked with Federal agencies to revise and streamline existing OMB guidance and Circulars related to grants administration to develop the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" (Uniform Guidance) located in part 200 of 2 CFR. 79 FR 78589 (Dec. 26, 2013) (2013 Final Guidance). See also 77 FR 11778 (Feb. 28, 2012) (2012 Advance Notice of Proposed Guidance); 78 FR 7282 (Feb. 1, 2013) (2013 Proposed Guidance). This effort was designed to assist programs in delivering better outcomes on behalf of the American people while also reducing administrative burden and the risk of fraud, waste, and abuse. The Uniform Guidance, published in 2013,

consolidated, streamlined, and superseded requirements from several earlier OMB Circulars and guidance documents related to grants management and implementation of the Single Audit Act. At the time, OMB explained that the guidance was also intended to improve clarity and accessibility of the requirements across the Federal Government.

Federal award-making agencies implemented the Uniform Guidance through an interim final rule, which became effective on December 26, 2014. 79 FR 75867 (Dec. 19, 2014) (2014 Federal Agency Interim Final Rule). Following the 2014 Federal Agency Interim Final Rule, most agencies did not reissue implementing regulations each time that the government-wide policies and requirements contained in 2 CFR subtitle A were updated by OMB following public notice and comment rulemaking procedures.²⁰ Instead, Federal agencies only occasionally issued or reissued implementing regulations. This generally occurred when specific changes were needed in the agency regulations. Because OMB has exclusive statutory authority under 31 U.S.C. 503(a)(2) to set government-wide financial management policies and requirements, the public comment period for the government-wide policies and requirements has been provided by OMB, not agencies.²¹

OMB periodically reviews the Uniform Guidance in accordance with 2 CFR 200.109. Following establishment of the Uniform Guidance in 2013, OMB made further revisions to the regulatory text in 2020 (85 FR 49506 (Aug. 13, 2020)) and 2024 (89 FR 30046 (Apr. 22, 2024)). The 2020 revisions addressed topics including program planning and design, performance measurement to improve program goals and outcomes, sharing lessons learned, and adopting promising practices. OMB again revised the regulatory text in 2024. The objectives of the 2024 update included incorporating statutory requirements and certain policy priorities of the previous administration, reducing agency and recipient burden, clarifying sections that recipients or agencies have interpreted in different ways, rewriting certain sections of the regulatory text in plainer language, improving flow, and resolving inconsistent use of terms.

Since the inception of OMB financial management policies and requirements

under now-superseded Circulars,²² and the initial establishment of the Uniform Guidance in 2013 based on policies contained in the earlier Circulars, the landscape of Federal financial assistance funding has changed markedly—including massive growth in the scale and volume of assistance provided by the Federal Government, increasing diversification in the purposes and types of assistance, and increasing responsibilities for executive agency administration of discretionary programs. A wide array of new Federal financial assistance programs and statutory responsibilities for executive agencies have been established by Congress, but the oversight and stewardship of Federal financial assistance by executive branch agencies has not always kept pace with or accounted for these changes. Revisions to OMB's policies in 2 CFR part 200 are now warranted to improve transparency, accountability, and efficiency of Federal financial assistance programs.

III. Statutory Authority for OMB Regulation for Federal Financial Assistance

The Deputy Director for Management of OMB is authorized under 31 U.S.C. 503 to, among other things, provide "overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements." 31 U.S.C. 503(a)(2). The Director of OMB is authorized under 31 U.S.C. 6307 to "issue supplementary interpretative guidelines to promote consistent and efficient use of . . . grant agreements . . . and cooperative agreements."

OMB also relies on authorities including the Single Audit Act Amendments of 1996 (Pub. L. 104-156, as amended, codified at 31 U.S.C. 7501-7507); the Federal Funding Accountability and Transparency Act of 2006 (FFATA or the Transparency Act) (Pub. L. 109-282), as amended; the Digital Accountability and Transparency Act of 2014 (DATA Act of 2014) (Pub. L. 113-101), as amended; the Federal Program Information Act (Pub. L. 95-220 and Public Law 98-169, as amended, codified at 31 U.S.C. 6101-6106); the Federal Grant and

²² OMB's 2012 Advance Notice of Proposed Guidance explained that, prior to establishment of 2 CFR part 200, government-wide audit requirements were contained in OMB Circulars A-133 and A-50; cost principles were contained in OMB Circulars A-21, A-87, and A-122; and administrative requirements were contained in the government-wide Common Rule implementing Circular A-102, Circular A-110, and Circular A-89. See 77 FR 11778 (Feb. 28, 2012).

²⁰ See 2 CFR 1.230.

²¹ See, e.g., OMB Memorandum M-24-11, Section I ("Implementation of Title 2 of the CFR") (Apr. 4, 2024); and Council on Federal Financial Assistance (COFFA) Memoranda for the Federal Financial Assistance Community dated January 15, 2025 and August 15, 2024.

¹⁸ See, e.g., OMB Circular A-110 (1993). The guidance in Circular A-110 was relocated to 2 CFR part 215 in 2004. See 69 FR 26281 (May 11, 2004).

¹⁹ 79 FR 78589 (Dec. 26, 2013).

Cooperative Agreement Act of 1977 (Pub. L. 95–224, as amended, codified at 31 U.S.C. 6301–6309); the Office of Federal Procurement Policy Act (codified at 41 U.S.C. 1101–1131); the Budget and Accounting Procedures Act of 1950, as amended (codified at 31 U.S.C. 1101–1126); the Chief Financial Officers Act of 1990 (codified at 31 U.S.C. 503–504); the Trafficking Victims Protection Act of 2000 (TVPA), as amended (codified at 22 U.S.C. 7101–7115); and Executive Order 11541, “Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President.”

IV. OMB Objectives for 2026 Proposed Revisions

OMB’s objectives for the current proposed revisions to several parts of subtitle A of 2 CFR include: (1) improving transparency, accountability, and oversight for use of Federal funds; (2) clarifying the status of the 2 CFR regulatory text as an OMB regulation; and (3) reducing recipient burden. The proposed revisions generally support one or more of these three objectives. The following is a high-level overview of the proposed rule’s three primary objectives, which is followed by a section-by-section discussion of the proposed changes.

A. Objective 1: Improved Transparency, Accountability, and Oversight

OMB’s first objective for the proposed revisions is to improve transparency, accountability, and oversight for how Federal funds, including taxpayer dollars, are used in the context of Federal grantmaking.²³

A.1. Background

For too long, the Federal Government has paid insufficient attention to providing proper oversight for Federal financial assistance programs. Deficiencies currently exist throughout the lifecycle of grants—from program design, to award selection, to project delivery and oversight—that impact the ability of the Federal Government to prevent wasteful spending and efficiently implement assistance programs in a manner consistent with law and the needs of the American public. If finalized, OMB’s proposed revisions in 2 CFR will improve transparency, accountability, and

oversight in the government-wide system of grants administration, including by ensuring that Federal award programs are properly aligned with law and policy and that Federal agencies act as responsible stewards of taxpayer dollars.

Recent years have provided evidence of the need for meaningful reform in Federal grants administration. Instead of aiming to broadly serve the needs of all Americans, in 2021 Federal agencies became increasingly focused on using their award programs to serve a “woke” policy agenda that deliberately favored certain identity groups over others. In seeking to advance this agenda, programs were often designed to include a long list of ideological terms and conditions with little connection to the core purpose of public support.²⁴ These burdensome conditions were consistently imposed through funding opportunities and award agreements regardless of the objective of the assistance program. This approach contributed to long delays in program implementation as Federal agencies and recipients focused their efforts and taxpayer resources on divisive policy requirements that were often unrelated to or misaligned with core purposes of Federal grant programs. Various commenters have remarked on how this approach resulted in waste, inefficiency, long delays in project delivery, and reduced program effectiveness across a range of activities receiving Federal support.²⁵ In one notorious example, under a \$42.5 billion broadband internet access program, the previous administration failed to connect a single person to the internet over the course of three years—instead focusing efforts and attention on imposing a long list of burdensome policy requirements.²⁶

²⁴ See, e.g., Ditch II (including summary of the “ideological terms and conditions bundled into” funding opportunities for infrastructure grants by the previous administration).

²⁵ See, e.g., Ezra Klein, “The Problem with Everything-Bagel Liberalism,” *The New York Times*, April 2, 2023 (describing the tendency of the previous administration to structure Federal award programs to address many unrelated policy goals at once, leading to a dramatic increase in the cost and complexity of projects, long delays in project delivery, and poor outcomes for American taxpayers); Ditch II (explaining how the prior administration structured award programs to simultaneously include a wide array of “novel and contentious” policy requirements, which diverted focus from core public purposes authorized in law and caused “tremendous amounts of waste and inefficiency”).

²⁶ “Fact Sheet: Ending Biden’s Broadband Burdens,” National Telecommunications and Information Administration (NTIA), June 6, 2025; John Thune, “Broadband Blunders Leave Americans Disconnected,” *Prairie Pioneer*, Oct. 2, 2024; Donald Kimball, “The \$42 billion internet program that has connected 0 people,” *Washington Policy Center*, Sept. 18, 2024.

Among various other policy requirements, Federal programs were frequently designed between 2021 and 2024 to include preferences and selection criteria aimed at advancing identity-based DEI policies.²⁷ This included using a variety of labels, such as promoting DEI, or using other intentional proxies for race, sex, or sexual identity, to give priority to certain favored identity characteristics and groups at the expense of others in the distribution of Federal awards and associated benefits.²⁸ The concerted effort to impose unlawful DEI policies on Federal award programs began on the very first day of the previous administration through issuance of Executive Order 13985.²⁹ That order instructed Federal agencies to set aside the decision-making processes used in previous years—which generally aimed to ensure that all Americans were treated equally—and to instead focus on remaking the system of grants administration with divisive identity-based DEI policies imposed throughout.³⁰ Following issuance of Executive Order 13985 in January 2021, Federal agencies began attaching these policies to all aspects of their award programs, including program design, award selection, and award conditions imposed on recipients. This continued for the duration of the previous administration.

Based on these efforts, Federal funding was used between 2021 and 2024 to advance unlawful DEI policies and preferences across the country.³¹ These and other burdensome policies and requirements imposed through Federal award programs diverted substantial amounts of taxpayer funding away from traditional public purposes recognized in law—such as transportation, infrastructure, scientific research, public health, and other essential public goods that serve all Americans—to instead support favored identity groups and left-wing activists.³²

²⁷ See E.O. 14151 of Jan. 20, 2025, “Ending Radical and Wasteful Government DEI Programs and Preferencing;” see also Ditch I; Ditch II.

²⁸ See Lisa Friedman, “White House Takes Aim at Environmental Racism, But Won’t Mention Race,” *The New York Times*, Feb. 15, 2022 (explaining how the previous administration used various intentional proxies for race to continue directing Federal grants and associated benefits to preferred racial-identity groups); see also Ditch I; Ditch II.

²⁹ E.O. 14151, sec. 1 (Discussing E.O. 13985); E.O. 13985 of Jan. 20, 2021, “Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,” *revoked* by E.O. 14148 of Jan. 20, 2025.

³⁰ E.O. 13985.

³¹ See, e.g., E.O. 14151, sec. 1.

³² See, e.g., U.S. Senate Committee on Commerce, Science, and Transportation, “D.E.I. Diversion.

²³ See E.O. 14332 of Aug. 7, 2025, “Improving Oversight of Federal Grantmaking;” White House Fact Sheet of Aug. 7, 2025, “President Donald J. Trump Stops Wasteful Grantmaking;” and White House Fact Sheet of Feb. 18, 2025, “President Donald J. Trump Requires Transparency for the American People About Wasteful Spending.”

As a result, Federal award programs that once had broad public support became tied to a divisive policy agenda that unlawfully discriminated against many of the Americans those programs were intended to serve. These policies were inconsistent with basic American values and civil rights laws, including the equal protection principles of the U.S. Constitution.³³ They were also misaligned with core purposes of relevant assistance programs.³⁴ All together, these policies wasted a large amount of American taxpayer resources and significantly undermined public trust in government across the country.

In January 2025, President Trump announced the end of the discriminatory DEI policies and

Extremism. Ideology. How the Biden-Harris NSF Politicized Science,” (2024) (finding an increase of more than 9,000 percent between 2021 and 2024 of new NSF grants focused on funding and promoting DEI initiatives); Ditch II (explaining how the previous administration tied nearly every major infrastructure program to DEI mandates and other add-on policy requirements unrelated to, and often conflicting with, the core objective of delivering needed infrastructure improvements across the country in a timely and cost-efficient manner); Ditch I (explaining how “equity plans” issued by Federal agencies including the Departments of Commerce, Defense, Education, Energy, Justice, and State, and the National Science Foundation, called for “group-based preferential treatment in grant and research programs and foreign aid”); U.S. DOT Press Release of Mar. 10, 2025, “U.S. Transportation Secretary Sean P. Duffy Rescinds Memos Issued By Biden Administration That Injected Social Justice, Radical Environmental Agenda Into Infrastructure Funding Decisions” (summarizing DOT decision to rescind policies from the last administration attempting “to push a radical social and environmental agenda” with “no basis in statute” on Federal infrastructure programs); Judge Glock, “Biden’s Progressive Infrastructure Boondoggle,” *City Journal*, Summer 2025 (explaining that, in working to implement the Infrastructure Investment and Jobs Act, many in the previous administration were not “especially interested in traditional infrastructure” or advancing “core transportation goals—[instead] elevating a host of progressive priorities in their place”); James B. Meigs, “The Big Squeeze: How Biden’s Environmental Justice Agenda Hurts the Economy and the Environment,” *Manhattan Institute*, Sep. 7, 2023 (explaining how “environmental justice” (EJ) policies diverted “spending and administrative resources away from straightforward environmental goals;” made “government programs less focused and less effective across the board;” and were “particularly burdensome for environmental and infrastructure projects,” adding “layers of bureaucracy and red tape to existing programs” and making individual projects “more time-consuming” and “more expensive” to deliver); James B. Meigs, “Biden’s ‘Justice40’ Is Bad Environmental Policy,” *National Review*, Nov. 9, 2023 (describing EJ policies as diverting “spending and administrative resources from straightforward environmental goals, such as reducing pollution,” and redirecting “them toward vague social goals,” such as “satisfying] community activists’ demands.”).

³³ E.O. 14151; E.O. 14173 of January 21, 2025, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity;” E.O. 14281 of April 23, 2025, “Restoring Equality of Opportunity and Meritocracy.”

³⁴ E.O. 14332, sec. 1; see also Ditch II.

requirements that had extended through virtually all aspects of the Federal Government in the prior administration.³⁵ In the grantmaking context, the President’s Executive orders released Federal programs from the divisive DEI mandates and other burdensome policy requirements imposed in previous years. Free of these constraints, Federal programs were able to restore focus on efficiently supporting core program purposes and public goods that serve all Americans, including ensuring that scarce public resources are best used in support of the essential public goods at which they aim.

Among other things, the President’s Executive orders announced that the Federal Government would renew its commitment to serving every American with equal dignity and respect;³⁶ restore its policy of prohibiting, rather than mandating, illegal discrimination;³⁷ and make necessary changes to ensure that the grant review process is no longer used to undermine the interests of American taxpayers.³⁸ A subsequent Executive order in August 2025 emphasized that Federal agencies must ensure that all Americans are treated equally and make merit-based decisions related to the ability of an applicant or recipient to produce actual results for the American taxpayer.³⁹ On July 29, 2025, the U.S. Department of Justice (DOJ) also issued new government-wide guidance intended to ensure that recipients of Federal funding do not engage in unlawful discrimination.⁴⁰ On December 2, 2025, DOJ’s Office of Legal Counsel (OLC) also released an opinion finding that certain race-based grant programs administered by the Department of Education violate the Fifth Amendment’s equal-protection component.⁴¹ That opinion explained that any “allocation of benefits and burdens based on a person’s race is anathema to the U.S. Constitution.”⁴²

This rulemaking proposes to institutionalize needed reforms in the Federal grantmaking process to address the unlawful discrimination and other serious problems that occurred during the previous administration. The basic values embedded in the Federal Government’s decision-making

³⁵ See, e.g., E.O. 14151, sec. 1.

³⁶ *Id.*

³⁷ E.O. 14281, sec. 1.

³⁸ E.O. 14151.

³⁹ E.O. 14332; White House Fact Sheet of Aug. 7, 2025.

⁴⁰ DOJ Memorandum of July 29, 2025, “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.”

⁴¹ Constitutionality of Race-Based Dep’t of Educ. Programs, 2025 WL 4055305 (Dec. 2, 2025).

⁴² Slip Op. 2.

processes for grants management must be consistent with law and designed to serve the public good of all Americans. OMB’s 2 CFR regulations are a key instrument for improving the standards, processes, and requirements that apply to all Federal grant programs. They are also an important tool for making needed reforms to the organizational culture within Federal grantmaking agencies. These agencies are entrusted to make discretionary decisions regarding the use of many billions of dollars of precious taxpayer resources, and must remain accountable to the American people when doing so.⁴³ Consistent with policies in recent executive orders, taxpayer dollars must be used to support essential public purposes authorized by law—not wasted to promote divisive doctrines of the far left.⁴⁴

OMB and Federal agencies now propose to address the problems summarized above as they impact Federal grantmaking. This includes removal of any remaining pieces of the old discriminatory policies that agencies may still apply to decision-making processes in the area of grants management. It also includes ending government sponsorship of gender ideology and other radical doctrines the previous administration sought to impose across the country through Federal funding programs. By renewing the Federal Government’s commitment to basic American values, and proposing other needed reforms to responsibly manage and safeguard taxpayer funds used in grantmaking, OMB seeks to prevent the types of unlawful discrimination, wasteful spending, and other significant problems that arose in recent years from recurring in the future. As explained in Executive Order 14332, the Federal Government holds tax revenue in trust for the American people, and Federal agencies should treat it accordingly.

A.2. Improved Transparency

Changes are needed to ensure improved transparency for how Federal funds are used. American taxpayers have a right to know the projects that their tax dollars are supporting and the entities to which those dollars are flowing. They should also feel confident that recipients and subrecipients of Federal awards are engaged in activities consistent with the basic public purposes of support authorized by law, that do not unlawfully discriminate against American citizens, that do not harm the interests or reputation of the

⁴³ E.O. 14151, sec. 1; E.O. 14332, sec. 1.

⁴⁴ *Id.*

Federal Government, and that do not threaten the national or economic security of the United States. For example, Federal grant funds should not be used to support recipients and subrecipients that work in partnership with our foreign adversaries. Improved transparency will shine a light on the full scope of Federal agency activities and the network of recipients and subrecipients of Federal awards that the American people are trusting to accomplish public purposes of support on their behalf.

A 2023 report from the Government Accountability Office (GAO) also emphasized the benefits of greater transparency in Federal grants management.⁴⁵ The report explained that “greater transparency of how the Federal Government spends its funds offers many potential benefits,” which may include “enabling data-driven decisions about how to use government resources, opportunities for improving the efficiency and effectiveness of Federal spending, and improving government’s accountability to the public.” OMB agrees that certain reforms are needed to provide greater transparency and accountability for use of public funds, and greater oversight to ensure that every taxpayer dollar the Federal Government spends improves Americans’ lives or advances American interests.⁴⁶

A.3. Improved Accountability

Proposed revisions related to improved accountability aim to ensure that recipients are held properly accountable for how Federal award funds are used. This includes ensuring that recipients only use Federal award funds for authorized public purposes, and comply with requirements related to reporting, nondiscrimination, and other topics.

A.4. Improved Oversight

The proposed revisions related to improved oversight aim to ensure that every discretionary award program is designed by Federal agencies to effectively achieve its underlying statutory purpose, and to align, where applicable, with administration policies and priorities set by the President.⁴⁷ This includes treating every American with equal dignity and respect, applying the principle of merit-based opportunity throughout the grant lifecycle, and avoiding unlawful discrimination when

selecting recipients to receive awards.⁴⁸ Improved oversight refers both to oversight of decision-making processes within Federal agencies and oversight of recipients using Federal award funding.

A.5. Examples of Proposed Changes Related to First Objective

OMB proposes many changes throughout this document related to improving transparency, accountability, and oversight for Federal grants. For example, OMB proposes updated language related to conflicts of interest (§ 200.112) and mandatory disclosures (§ 200.113). In § 200.202 related to program planning and design, OMB proposes a variety of changes seeking to ensure that programs align with law and Executive Branch policy.

In §§ 200.201 and 200.333, and throughout part 200, OMB proposes to eliminate the use of fixed amount awards and subawards, which can limit transparency and hinder effective oversight. For example, under fixed amount awards there is no expected routine monitoring of actual costs incurred by the recipient or subrecipient, and no financial reporting is required.⁴⁹ This proposed change further ensures that Federal agencies exercise an appropriate level of oversight on how tax dollars are spent under all types of awards. This will help to ensure that Federal dollars are not wasted on activities that may not fully support the achievement of program outcomes. The American people deserve to know where all Federal tax dollars are flowing.

In §§ 200.204 through 200.206 related to funding opportunities, selection of recipients, and reviewing risk of applicants, OMB proposes a variety of changes designed to ensure and emphasize the need for merit-based selection of recipients for discretionary awards.⁵⁰ Other proposed changes seek to align the regulatory text with requirements in Executive Order 14332 regarding oversight in grantmaking. In § 200.206, some of the proposed changes seek to ensure that recipients with a history of questionable practices or poor financial management are not rewarded with scarce taxpayer resources.

In § 200.208, OMB proposes to update the standards for including specific

conditions in Federal awards. In § 200.211, OMB proposes to clarify information that must be included in Federal awards. In §§ 200.218, 200.219, 200.220, and 200.300, OMB proposes various changes to ensure that award funds are not used for unlawful discrimination or other purposes inconsistent with law and Executive Branch policy.

In § 200.305, proposed changes seek to ensure that both Federal agencies and pass-through entities exercise appropriate due diligence before issuing payments of Federal funds, including requiring a justification for payment requests. Proposed revisions also address use of Treasury’s “Do Not Pay” system before issuing payments.

In §§ 200.329 through 200.332, OMB proposes changes related to further ensuring that pass-through entities follow through on their statutorily-required responsibility to report subawards on *SAM.gov*. In addition to ensuring that required reporting occurs, the proposed changes seek to ensure that Federal dollars are tracked as subawards in circumstances in which recipients transfer funds to affiliates, subsidiaries, or other related organizations. Proposed changes also emphasize the need for Federal agencies to ensure that their recipients comply with subrecipient reporting requirements on *SAM.gov*. The 2023 GAO report referenced above also identified “challenges with the completeness and accuracy of subaward data displayed on *USAspending.gov*.” OMB is proposing several revisions in 2 CFR to ensure that pass-through entities meet this reporting obligation and that Federal agencies exercise appropriate monitoring and oversight over the responsibilities of the recipients they decide to partner with under their programs.

In § 200.340, OMB proposes to further clarify the existing regulatory text related to award termination and further ensure that Federal agencies provide clear notice to all recipients of the Federal Government’s ability to terminate discretionary awards for discretionary reasons in a manner consistent with law.⁵¹ This proposed clarification is similar to the existing authority at § 200.340(a)(4) to terminate awards found to be inconsistent with program goals or agency priorities. It would also be similar to the long-standing authority to terminate Federal contracts for convenience at 48 CFR 49.502 and 52.249–2. If finalized, this revision will further ensure that Federal agencies retain ongoing programmatic

⁴⁵ Jeff Arkin, “Grants Management, Observations on Challenges with Access, Use, and Oversight,” United States Government Accountability Office, GAO–23–106797, May 2, 2023.

⁴⁶ E.O. 14332, sec. 1.

⁴⁷ E.O. 14332, sec. 4(b)(i).

⁴⁸ See, e.g., E.O. 14151; E.O. 14173 of January 21, 2025, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity;” and E.O. 14281 of April 23, 2025, “Restoring Equality of Opportunity and Meritocracy.”

⁴⁹ See 2 CFR 200.201(b)(1) (existing version).

⁵⁰ See, e.g., E.O. 14173 of January 21, 2025, “Ending Illegal Discrimination and Restoring Merit-Based Opportunity;” and E.O. 14281 of April 23, 2025, “Restoring Equality of Opportunity and Meritocracy.”

⁵¹ E.O. 14332, sec. 5 and 6.

discretion after an award is made, consistent with law, to terminate a discretionary award that is not effective at achieving program goals or Federal agency priorities, or that an agency otherwise determines is no longer in the Federal Government's interest. In the same section, OMB also proposes similar changes related to award suspension.

In addition, OMB proposes additional changes in subpart E (cost principles at §§ 200.400 through 200.476) related to improving transparency, accountability, and oversight. For example, OMB proposes various changes to further distinguish between allowable and unallowable costs.

B. Objective 2: Clarification of Regulatory Structure

OMB's second objective for the current proposed revisions is to clarify the status of OMB's government-wide financial management policies and requirements contained in 2 CFR subtitle A, as an OMB regulation. In support of this objective, OMB and the grantmaking agencies joining this rulemaking collectively propose revisions in 2 CFR to clarify the regulatory status of OMB's government-wide policies and requirements. This change is intended to establish a standardized framework across all Federal grantmaking agencies—now including those that did not join the 2014 Federal Agency Interim Final Rule—and to promote predictability, transparency, and consistency across the Federal Government. This proposal would modernize and streamline Federal grants management consistent with OMB's statutory authority to enhance financial management across the Executive Branch.

The current framework in which each agency issues a brief regulation to adopt OMB's requirements will generally be preserved through this interagency rulemaking, but OMB proposes to make minor adjustments in the regulatory text to clarify that OMB's requirements in subtitle A carry regulatory effect in their own right. Agencies will participate in this one-time joint interagency rulemaking to implement the clarified regulatory structure and amend their adopting regulations accordingly. Thereafter—in rulemakings following the current one—when OMB amends the regulatory text of 2 CFR through a government-wide notice-and-comment (N&C) rulemaking, those changes will apply government-wide on the effective date of OMB's final rule. This distinction is less relevant for the present rulemaking because relevant grantmaking agencies are joining OMB

in proposing these changes.⁵² In the future, the public will continue to have a full and meaningful opportunity to comment during OMB's N&C rulemakings, and agencies will continue providing input to OMB during interagency review periods and implementing the requirements. As discussed below, this proposal is generally consistent with the way that most agencies have implemented OMB amendments of the 2 CFR regulatory text since 2013.

This proposal maintains the familiar structure of 2 CFR, but will increase predictability, transparency, and uniformity regarding how OMB amendments are implemented following future N&C rulemakings. Consistent with OMB's government-wide authorities, the proposal will allow for timely amendments of administrative requirements, cost principles, and audit requirements for grants and other Federal awards across the Federal Government.

B.1. Current Regulatory Structure

In 2013, OMB combined previously separate OMB circulars and guidance documents into one centralized guidance document published in 2 CFR subtitle A. 2 CFR part 200 is commonly referred to as OMB's "Uniform Guidance" or "Uniform Grants Guidance." Following establishment of the guidance by OMB in 2013, most Federal grantmaking agencies initially adopted the guidance in 2014 through implementing regulations in 2 CFR subtitle B.⁵³ The guidance currently provides that "[p]ublication of the OMB guidance in the CFR does not change its nature—it is guidance, not regulation."⁵⁴

⁵² All, or nearly all, grantmaking agencies in the Executive Branch have joined this proposed rulemaking and plan to actively adopt the specific policy changes in tandem with OMB through the joint interagency final rule. Thus, the proposed clarifications in this document regarding the process that OMB will follow for 2 CFR amendments will primarily affect *future* OMB amendments of the government-wide requirements in which other agencies are not directly participating. Although OMB and agencies are currently undertaking a joint interagency rulemaking process through this document, it would be inefficient to repeat this process of assembling every grantmaking agency in the Federal Government to directly join all future OMB rulemakings. As discussed in this document, OMB is authorized by law to set government-wide policies and requirements for grants management. Moreover, as also discussed in this document, the proposed process for 2 CFR amendments is very similar to how the existing process for such amendments has already worked for the last decade.

⁵³ 78 FR 78590; (Dec. 26, 2013); 79 FR 75871 (Dec. 26, 2014).

⁵⁴ 2 CFR 1.105.

The existing structure of 2 CFR—including its classification as guidance—has tended to result in questions and uncertainty in the Federal grants community regarding the process for agency implementation of OMB amendments of the government-wide requirements in the regulatory text of subtitle A.⁵⁵ The existing version of 2 CFR 200.110(a) already provides that part 200's requirements become effective for the "administration of Federal awards by Federal agencies" *either* "once implemented by Federal agencies [under the process described at 200.106 (existing version)] or when any future [OMB] amendment to . . . part [200] becomes final." 2 CFR 200.110(a) (existing version) (emphasis added). As explained below, OMB proposes to retain the quoted regulatory text without change, but further clarify its meaning to address recurring questions regarding the effect of OMB amendments.

After the initial agency adoption of part 200 in 2014, secondary or follow-on rulemakings by Federal agencies to implement OMB amendments of part 200 or other parts have generally either not occurred at all⁵⁶ or not been initiated by agencies in a timely manner. The sporadic secondary rulemakings that have occurred following 2014 have generally only been initiated in circumstances in which an agency had something specific to add or modify in its own adopting regulations. In most cases, consistent with 2 CFR 200.110(a) (existing version), agencies have simply implemented OMB amendments of the 2 CFR regulatory text based on the text of their existing adopting regulations, and through the terms and conditions of Federal awards issued following the government-wide effective date of the OMB amendments.⁵⁷

There are many practical reasons why agencies have not generally completed secondary rulemakings to readopt OMB amendments following 2014. Beginning dozens of secondary agency N&C rulemakings only after OMB has already completed a year-long government-wide N&C rulemaking process—including extensive interagency coordination before the formal rulemaking process even begins—would generally be

⁵⁵ See, e.g., OMB Memorandum M–24–11, Section I ("Implementation of Title 2 of the CFR") (Apr. 4, 2024); and COFFA Memoranda for the Federal Financial Assistance Community dated January 15, 2025 and August 15, 2024.

⁵⁶ Following initial agency adoption, implementing revisions on the effective date provided in OMB's final rulemaking is consistent with the information provided to the public in 2 CFR 200.110(a) (existing version) regarding the process for implementing future amendments.

⁵⁷ See 2 CFR 200.105(b) (existing version).

redundant, create long administrative delays, constitute a major drain on agency resources, and frustrate the objective of government-wide uniformity for OMB policy changes. For example—as with the Federal Acquisition Regulation (FAR) that applies to Federal procurement contracts—it is sometimes necessary for OMB to amend the regulatory text to align with legislative changes on specific government-wide effective dates. Secondary agency rulemakings could result in staggered and sometimes wildly inconsistent effective dates for OMB's amendments and associated policies across the Federal Government—with agency rules only being proposed and finalized as agency resources allow. This would effectively delay implementation of OMB's government-wide requirements by an extended period of time. Such delays would create confusion for recipients, auditors, and the entire Federal grants community, and be inconsistent with OMB's statutory authority to set government-wide requirements for grants administration that agencies must follow. Moreover, agencies would generally have little of substance to say in response to public comments on government-wide policy requirements already settled by OMB pursuant to its own statutory authorities and firmly established in the regulatory text of subtitle A.

B.2. Proposed Clarification of Regulatory Structure

a. In general. Through this rulemaking, OMB and Federal grantmaking agencies seek to collectively clarify how government-wide “financial management policies and requirements” codified in OMB's 2 CFR regulatory text in subtitle A will be implemented by Federal agencies in the future.⁵⁸ The current classification of the OMB regulatory text as “guidance, not regulation” is confusing for award recipients, is generally inconsistent with the history of agency implementation of OMB amendments since 2014, and fails to provide adequate predictability and transparency for the Federal grants community regarding how future OMB amendments of the regulatory text of subtitle A will be implemented by agencies. To promote predictability, transparency, uniformity, efficiency, and other objectives described in this document, OMB seeks to provide further clarity regarding the regulatory structure and status of 2 CFR through this rulemaking.

b. Similar to existing frameworks. The proposed clarification in this document is similar to the already existing process for agency implementation of OMB amendments of the regulatory text in part 200. Information on the existing process is provided at 2 CFR 200.110(a) and discussed in this document above. Thus, at least for agencies that have already implemented the OMB requirements, OMB's proposed amendments related to this objective are primarily intended to clarify the status of the regulatory text in subtitle A, rather than constituting a fundamentally new approach or change in direction. As discussed above, the approach described in this document is consistent with how most agencies have implemented OMB amendments of the regulatory text of 2 CFR subtitle A since the Uniform Guidance was first adopted by agencies in 2014.

The proposed clarification is also procedurally similar to the long-standing “adoptable guidance” model for the suspension and debarment requirements in 2 CFR part 180.⁵⁹ In the 2005 preamble establishing part 180, OMB observed the need to “[s]treamline the process for updating the government-wide requirements” by centralizing the process for substantive updates to the rule at OMB—with agencies only needing to complete one initial adoption. The “adoptable guidance” approach allowed OMB to “publish proposed changes to the [government-wide requirements] in the **Federal Register**, with an opportunity for the public to comment.” Once agencies had completed the initial step of adopting the part 180 guidance in agency regulations, “the process for future updates [would] be complete [each time that] OMB issues . . . final guidance” amending the regulatory text. In other words, agencies would “not need to amend their regulations adopting the guidance” through dozens of separate agency rulemakings following future OMB amendments. That regulatory structure has remained the status quo for 2 CFR part 180 for the past 20 years.

Like part 180, OMB also issued part 200 for agency adoption in 2013, which represented a major improvement from the older patchwork of OMB Circulars and agency-specific regulations. However, despite the information provided at 2 CFR 200.110(a), questions regarding the process for agency implementation of OMB amendments of part 200 have lingered, which has impacted the predictability, transparency, and consistency of

government-wide implementation of the OMB requirements.

Consistent with the approach described in the preamble for part 180 and the existing regulatory text at § 200.110(a), this document proposes to further clarify how agency adopting regulations in subtitle B apply to future amendments of subtitle A. The proposal will also clarify the status of OMB's regulatory text throughout subtitle A as an OMB regulation. Agencies will remain partners with OMB in the process for future amendments by participating in OMB's development of proposed policy changes and continuing to implement the effective requirements. However, OMB proposes to clarify that the legal mechanism for future updates will be streamlined to a single **Federal Register** document issued by OMB following public N&C, rather than dozens of rulemakings across the Federal Government with generally identical requirements but inconsistent effective dates. For the reasons discussed above, beginning dozens of agency N&C rulemakings after OMB has completed its own N&C rulemaking process would be impractical, inefficient, and impede OMB's ability to timely exercise its own statutory authorities to set government-wide requirements for grants management.

c. OMB government-wide authorities related to grants administration. Congress authorized OMB at 31 U.S.C. 503 to set government-wide requirements for grants administration, and agencies must follow the OMB requirements in their award programs. Congress also authorized OMB under the Federal Grant and Cooperative Agreement Act of 1977, codified in relevant part at 31 U.S.C. 6307, to issue interpretative guidelines to Federal agencies to promote consistent and efficient use of Federal financial assistance awards. Congress also authorized OMB at 31 U.S.C. 7505 to provide government-wide requirements for Single Audits of recipients, and agencies must also follow those requirements. Congress also authorized OMB under the Transparency Act (Pub. L. 109–282), as amended, to provide instructions to agencies related to ensuring public transparency of their assistance programs—including with respect to award recipients, award amounts, unique entity identifiers, subawards, and various other information—which agencies are also required to follow. At 31 U.S.C. 6105, Congress also assigned oversight responsibility to OMB for the exercise of all authorities and responsibilities related to Federal program information. At 41 U.S.C. 1125, Congress authorized

⁵⁸ 31 U.S.C. 503(a)(2).

⁵⁹ 70 FR 51863, 51864 (Aug. 31, 2005).

OMB to prescribe government-wide requirements that agencies must follow in providing for the procurement of property or services by recipients of Federal grants or other forms of financial assistance. Pursuant to all of these authorities, and others described in this document, the proposed rule clarifies that 2 CFR subtitle A is OMB's issuance of government-wide requirements under Federal law that agencies must carry out.

d. Summary of proposed Uniform Grants Regulation (UGR). Under the proposed rule, OMB will issue the "Uniform Grants Regulation" as an OMB regulation with one government-wide effective date, pursuant to OMB's statutory authority described above, to provide government-wide grants management requirements. The text of 2 CFR subtitle A will be revised to reflect its status as an OMB regulation, especially in key provisions in parts 1 and 200. OMB proposes to remove the statement in 2 CFR 1.05 that the regulatory text is only guidance and "not regulation." Otherwise, the structure of title 2 of the CFR will generally remain the same, with OMB requirements in subtitle A and agency "adopting" chapters in subtitle B. Federal agencies join this proposal, and plan to issue the final rule as a joint rulemaking with a common preamble to implement this structure.

The proposed changes will provide regulatory clarity to the entire Federal grants community regarding the effective date and binding effect of OMB's policies and requirements, and their application to agencies and recipients for new awards issued after the effective date of OMB's amendments. The "Uniform Grants Regulation" framework will avoid the need for dozens of secondary agency rulemakings merely to reaffirm identical requirements that apply government-wide—which OMB is authorized by statute to determine. Following 2014, such secondary agency rulemakings have generally not occurred under the existing structure. Advantages of the clarifications provided through the "Uniform Grants Regulation" proposal include: (1) uniform, transparent requirements; (2) reduced redundancy and regulatory volume; and (3) a streamlined approach allowing for efficient updates and responsive government-wide policy changes. The proposed approach will also maintain public participation.

(i) Uniformity, transparency, and regulatory clarity. The "Uniform Grants Regulation" framework will make it easier for recipients and auditors to find and understand the rules that apply to

Federal awards, and the date on which those rules become effective. The modified regulatory text would resolve recurring questions on these topics, and reinforce that OMB's government-wide requirements are legally binding pursuant to OMB's statutory authorities for future updates on the effective date of OMB's amendments of the regulatory text. OMB's authorities contemplate OMB setting binding policy related to financial assistance for all agencies—which is effectively what the Uniform Guidance already does today. This proposal will simply clarify the regulatory status of subtitle A, and ensure that OMB policies apply uniformly across all agencies on the effective date intended by OMB without the need for redundant and open-ended agency rulemaking processes to implement them. From a recipient's perspective, OMB's requirements in 2 CFR will still generally carry the same weight as before, but calling them OMB regulations will further emphasize and clarify their binding effect across the Federal Government.

(ii) Reduced redundancy. The proposed clarification will promote efficiency and save government resources by preventing the need for dozens of secondary agency rulemakings. Agencies may still undertake such rulemakings as appropriate to make adjustments in their own chapters, but will not be required to in the case of every OMB amendment. Existing provisions in the regulatory text, which OMB proposes to retain, also provide mechanisms for exceptions and otherwise maintaining alignment with agency program statutes in the case of conflict.⁶⁰

Moreover, agencies will not be entirely removed from the process of 2 CFR updates, but will remain involved as partners in OMB's regulatory process, and through participation in interagency workgroups such as the Council on Federal Financial Assistance. Although, in general, agencies will not need to directly join future OMB rulemakings, they will remain engaged in the interagency review processes, ensuring that agency grant experts have appropriate input on legal and practical considerations for their agencies before rules are proposed or finalized by OMB.⁶¹

(iii) Efficiency and responsiveness. The "Uniform Grants Regulation" framework recognizes the practical

⁶⁰ See 2 CFR 200.100(a)(1), 200.101(a)(2) and (d), 200.102, 200.105, and 200.106.

⁶¹ See also section IV.C.2.g of this preamble regarding "continued public and agency participation."

reality of needing to ensure that OMB is able to efficiently exercise its statutory authority to provide government-wide grants management requirements in a timely and responsive manner. Given that updates to OMB's requirements in subtitle A may already take upwards of a year to complete prior to any secondary agency rulemakings—from initial policy development at OMB to inter-agency coordination, drafting and obtaining clearance for proposed rulemaking documents, completing N&C procedures, responding to comments, drafting and obtaining clearance for final rulemaking documents, additional inter-agency coordination, and typically, but not necessarily, providing some gap between issuance of the final rule and its effective date—the proposal will ensure that OMB can actually establish government-wide requirements within a reasonable timeframe. The proposal will clarify that agencies do not need to initiate another lengthy N&C rulemaking process just to implement OMB amendments for which OMB already followed robust public N&C procedures. The framework will ensure that OMB remains able to efficiently respond to emerging compliance issues or implement new statutory requirements in a timely manner across all agencies.

Both the Federal Government and American public will benefit from such timely adjustments. This may include, for example, faster incorporation of legislative changes from Congress. This is far more workable and efficient than an alternative model in which dozens of agency rulemakings to implement new requirements would only begin after OMB has already completed a year-long process to propose and make amendments. Such an alternative model would effectively prevent timely implementation of needed government-wide policy reforms related to grants management, and frustrate OMB's ability to efficiently perform its own statutory functions.

(iv) Note regarding proposed names for title 2 and part 200. This document proposes to use "Uniform Grants Regulation" (UGR) as a plain language name or designation for 2 CFR part 200 following issuance of a final rule. See § 1.100 (proposed version). OMB does not propose a change to the existing header for Title 2, which would remain "Federal Financial Assistance." Thus, the various parts of Title 2 would collectively constitute the Federal Government's "Regulation for Federal Financial Assistance" (RFFA), while part 200 would constitute the UGR. OMB also does not propose a change to the (formal) header for part 200, which

would remain “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (UAR). Thus, the name UGR, as referred to in § 1.100 (proposed version), would be used in a way similar to how “Uniform Guidance” is currently used as a plain language way of referring to part 200—despite its formal header. The acronym UAR would also remain acceptable and accurate, as would simply referring to “part 200.”

The proposed name of UGR for part 200 would not have any impact on the part’s broader applicability to cooperative agreements and other forms of financial assistance, which remain subject to part 200 under the proposed regulatory text. See 2 CFR 200.1 and 200.101 (proposed versions). Grants are a common and widely used form of Federal financial assistance. See 2 CFR 200.1. Outside of its technical meaning, the term “grant” is also generally understood and used in ordinary speech by the general public in a way that more technical terms may not be. OMB proposes to refer to part 200 as the UGR to retain a name that will be widely understood, easy to say, and still similar to the existing name for part 200—the “Uniform Guidance”—which is widely known and used throughout the Federal financial assistance community. Under the existing structure, “Uniform Guidance on Grants” and “Uniform Grants Guidance” (UGG) are also frequently used to refer to part 200, which are also similar to the name proposed in this document.

In selecting a proposed plain language name and acronym, OMB also considered “Financial Assistance Regulation,” but determined that the acronym for this name would conflict with the acronym that is already used for, and widely known as applying to, the Federal Acquisition Regulation (FAR). Creating a second FAR that applies to Federal financial assistance instead of Federal procurement contracts would cause confusion and be unworkable. OMB believes that UGR will be a simple and clear way to refer to part 200 following issuance of the final rule and easily distinguishable from the FAR. As is currently the case, the regulatory text of 2 CFR part 200 may also be referred to as the UAR (based on the formal header) or simply as “part 200.”

e. Continued public and agency participation. Finally, the proposed “Uniform Grants Regulation” framework will also maintain public and agency participation in the development of policies. OMB will continue to follow public N&C rulemaking procedures for substantive

updates, and all stakeholders will have the ability to comment on any changes proposed by OMB. Thus, interested parties can focus on a single unified proposal rather than tracking and commenting on dozens of separate agency proposals. Agencies will still be involved during the development stage for OMB policy amendments and various interagency review periods, and still have the ability to raise agency-specific issues with OMB before amendments are proposed or finalized. After OMB’s final determination, secondary public N&C periods at each agency would serve little practical purpose, as the key policy decisions would already have been made by OMB with input from both public commenters and Federal agencies.⁶²

B.3. Proposed Changes to Agency Chapters in Subtitle B of 2 CFR

Through this proposed rulemaking, certain Federal grantmaking agencies that currently lack an existing chapter in 2 CFR subtitle B propose to add chapters, which is intended to streamline implementation and reduce variability across the Federal Government. Federal agencies that have existing chapters in 2 CFR subtitle B propose certain targeted and conforming changes to support OMB’s broader rulemaking effort. Following this rulemaking, subtitle B will provide a complete list of all grantmaking Federal agencies,⁶³ including certain agency-specific policies and procedures. This proposed change will make OMB’s policies and requirements in 2 CFR truly “uniform” across the Federal Government for first time since OMB’s “Uniform Guidance” was established in 2013.

C. Objective 3: Reducing Recipient Burden

The third and final objective of this rulemaking is to reduce recipient burden. The proposed revisions in support of this objective are aimed at

ensuring that the requirements contained in 2 CFR are only those that OMB finds necessary for the efficient implementation and oversight of assistance programs authorized by law.

Some of the changes related to this objective are aimed at ensuring that recipients can focus on timely and efficient delivery of core program purposes. As discussed under the first objective in this document, in previous years Federal agencies often required award recipients to spend great amounts of time, effort, and financial resources to implement unlawful DEI mandates and other unnecessary add-on requirements that increased project costs, complexity, and completion timelines, but did not serve the underlying public purpose of support of the relevant assistance program. By contrast, under the proposed version of the regulation, OMB seeks to ensure that Federal agencies will appropriately reduce the scope of award activities to only what is necessary to achieve the objectives identified in law consistent with Executive Branch policy. If finalized, recipients should be able to restore focus on achieving core public purposes in a cost-efficient and timely manner.

In seeking to reduce recipient burden, OMB also reviewed the guidance to look for other opportunities to further standardize and streamline the grantmaking process where feasible. For example, in § 200.202, the proposed regulation encourages the use of multi-year awards, thereby reducing the frequency of applications and individual awards that are generated each year. In § 200.204, OMB encourages Federal agencies to adopt more efficient Notice of Funding Opportunities and application practices, including the use of statements of interest, which will simplify the process for thousands of prospective applicants. In addition, the proposal would require that all Federal funding opportunities be posted on *Grants.gov* ensuring agencies use a single, consistent platform that reduces duplicative processes and increases transparency for award applicants. Under the proposed regulation, agencies are not prohibited from announcing opportunities on their websites or in other locations in addition to *Grants.gov*. Federal agency heads (or designees) may approve exceptions to this requirement when the agency determines that publicly announcing an opportunity would pose a national security risk or is in the national interest of the United States. The removal of superfluous policy requirements reduces costs and complexity without undermining

⁶² A Federal agency would still be permitted to engage in such secondary rulemaking procedures if it determines that codified exceptions are needed and consistent with procedures and basic parameters for codified exceptions set forth in the regulatory text of subtitle A. As under the existing regulatory text, an agency could immediately implement any exceptions required by statute in advance of a secondary rulemaking and without the need for additional approval from OMB under 2 CFR. See 200.101(d)(1) and 200.102(b) (proposed version).

⁶³ Limited exceptions are noted at 2 CFR 1.221 (proposed version) for agencies with limited, if any, rulemaking authorities. Like all other agencies, the listed agencies at 2 CFR 1.221 (proposed version) would be required to implement OMB’s government-wide requirements in 2 CFR subtitle A, but would not be required to issue regulations due to the limited nature of their authorities.

accountability for Federal financial assistance awards.

OMB is also committed to continuing to support this objective following the current rulemaking process. For example, efforts to address this objective may also involve longer-term initiatives to: (i) review and streamline existing government-wide forms to ensure that only necessary data is being collected a single time; and (ii) work with Federal grantmaking agencies to eliminate or reduce burdensome program regulations and requirements.

V. Regulatory Impact Analysis

The attached Regulatory Impact Analysis (RIA) evaluates the benefits, costs, and transfers associated with the proposed rule. For example, the RIA evaluates the proposed elimination of fixed amount awards and fixed amount subawards; proposed payment accountability reforms, including requirements for Federal payment requests; proposed reforms related to subrecipient oversight; proposed clarifications of authority for termination and suspension of Federal awards; proposed changes to national policy provisions; and proposed changes related to eligibility restrictions for research and development awards. The draft RIA finds that the proposed rule is expected to generate qualitative benefits, modest administrative costs, and minimal transfer effects. OMB invites comments on the analysis provided in the attached RIA.

VI. Section-By-Section Discussion of the Proposed Revisions to Subtitle A of 2 CFR

OMB invites comments on the proposed revisions throughout subtitle A of 2 CFR.

Part 1—About Title 2 of the Code of Federal Regulations and Subtitle A

OMB proposes to revise various sections of 2 CFR part 1 to replace references to “guidance” with “regulation” to reflect that the OMB policies contained in 2 CFR subtitle A constitute an OMB regulation. Additional analysis related to this change is provided in this document above.

OMB proposes to add a new § 1.221 to explain that certain listed Federal agencies received approval from OMB to implement the OMB regulations in subtitle A as policy applicable to their Federal awards without establishing agency regulations in subtitle B. Approval of this alternative implementation method is generally based on the limited rulemaking authorities of these agencies.

Parts 25, 170, 175, 180, 182, and 183

OMB proposes limited revisions in parts 25, 170, 175, 180, 182, and 183. As throughout the regulatory text, OMB proposes to replace the term “guidance” with “regulation” or “policy,” as appropriate, for the reasons set forth above. In some cases, depending on the context, the use of the word “guidance” is maintained, such as instances in which the term does not refer to the regulatory text of 2 CFR. OMB also proposes various grammatical changes in these parts.

In part 170, OMB proposes certain revisions to reflect that, as of March 8, 2025, *FSRS.gov* was retired, and all subaward reporting data and functionality are now on *SAM.gov*. Thus, certain references to FSRS are replaced with references to *SAM.gov*.

In part 180, consistent with other changes throughout the regulatory text, OMB proposes to remove the statement in § 180.15 that the policy contained in the regulatory text “is guidance not regulation.” OMB also proposes to revise § 180.25 to clarify that agencies must not deviate from the requirements of this part on matters for which discretion is not provided.

OMB proposes to revise §§ 180.745 and 180.840 to require agencies to provide entities or individuals with a transcribed record of fact-finding proceedings for suspensions and debarments within five business days. Under this proposal, the entity or individual requesting the transcript would remain responsible for purchasing it and paying applicable costs. Although not addressed directly in either the existing or proposed regulatory text, in some cases it is possible that other laws may restrict what information may be provided in this context, such as classified information.

In § 180.915, OMB proposes to update the reference to the Program Fraud Civil Remedies Act (PFCRA) of 1986 to reflect that, on December 23, 2024, Congress amended the PFCRA, including changing its name to the Administrative False Claims Act (AFCA).⁶⁴

Similarly, in part 182, OMB proposes to remove the statement in § 182.15 that the policy contained in the regulatory text “is guidance not regulation.” In § 182.25, OMB also proposes to clarify that Federal agencies must not deviate from the requirements of this part on matters for which discretion is not provided.

OMB also proposes to revise part 183 to replace the term “guidance” with

“regulation.” Finally, OMB proposes to update the definition of “covered combatant command” in § 183.35 to simply reference the definition existing in law.

Part 176—Award Terms for Assistance Agreements That Include Funds Under the American Recovery and Reinvestment Act of 2009

OMB proposes to remove the guidance in part 176 related to the American Recovery and Reinvestment Act of 2009 (ARRA). Part 176 was initially issued to govern the use of funds appropriated under ARRA as part of the Nation’s economic recovery efforts following the 2008 financial crisis. The regulations in part 176 are no longer needed because awards are no longer being made under ARRA. The removal of part 176 aligns with OMB’s broader objective of streamlining Federal financial assistance regulations by eliminating outdated or unnecessary provisions that no longer serve a practical function.

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

Throughout part 200, consistent with changes discussed above, OMB proposes to replace the term “guidance” with “regulation” when referring to the regulatory text of 2 CFR. In some cases, OMB also proposes to replace the term “guidance” with “policy” or other terms that fit within the context of the regulatory text.

Subpart A—Acronyms and Definitions Section 200.1—Definitions

OMB proposes to revise § 200.1 to align with the proposed policy changes and to be consistent with Federal law. These changes include revisions to the definitions for “Federal award date,” “improper payment,” “personally identifiable information (PII),” and “unobligated balance.” Other proposed changes include removing definitions for “fixed amount awards” and “protected personally identifiable information (Protected PII).” The existing definition of Protected PII is not necessarily consistent with other OMB guidance, which does not distinguish between PII and Protected PII. Other conforming changes were proposed in other sections of the regulatory text that use the term Protected PII.

OMB also proposes to revise the definition of “compliance supplement” to delete the words “annually updated.” OMB is in the process of reevaluating the appropriate frequency for issuing the compliance supplement. Pursuant to the Financial Management Risk

⁶⁴ Public Law 118–159, sec. 5203(a).

Reduction Act (Pub. L. 118–207), OMB and the Office of Inspector General for the Department of Health and Human Services (HHS) are currently analyzing the single audit process. OMB plans to engage stakeholders ahead of any substantial changes.

Subpart B—General Provisions

Section 200.101—Applicability

OMB proposes to revise § 200.101(b)(4) to remove references to fixed amount awards. OMB proposes to remove the reference to fixed amount awards for consistency with other changes proposed in this document, which eliminate the use of both fixed amount awards and subawards, which can limit transparency and hinder effective oversight. OMB also proposes to include a reference to the FAR in § 200.101(c)(2).

OMB also proposes to make certain clarifying edits regarding which provisions govern in the case of conflict in paragraph (d) of § 200.101. OMB now proposes to address statutory and regulatory conflicts in separate paragraphs. Paragraph (d)(1) regarding statutory conflicts remains substantially unchanged except for the proposed deletion of the reference to regulations. OMB proposes a new paragraph (d)(2) under § 200.101 addressing non-statutory conflicts with agency regulations. OMB proposes to specify that the following provisions of part 200 will govern in any circumstances where they conflict with a regulatory provision not required by Federal statute: all sections in subpart F and § 200.340 in subpart D. For other non-statutory conflicts with an agency's regulatory provision, the proposed regulatory text would encourage Federal agencies to apply the government-wide policies in part 200 to the greatest extent permitted by law. OMB also proposes to recommend that Federal agencies clarify which provisions govern in funding opportunities and Federal award documents. The proposed text explains that the default presumption would generally be for the Federal agency to apply the government-wide policies in this part if it can do so consistent with law. Finally, the proposed revision recommends that Federal agencies also work to resolve such non-statutory conflicts consistent with their rulemaking authorities; applicable provisions in part 200, such as §§ 200.102, 200.106, and 200.110; or both. For example, this may involve amending an agency regulation outside of 2 CFR to eliminate the conflict or codifying an exception to the

government-wide policy in the agency's implementing regulations in subtitle B.

It should be recognized that § 200.101(d)—under both the existing and proposed versions—only applies to Federal programs to which part 200 applies. The proposed policy regarding program applicability in this section remains generally unchanged. The proposed edits regarding regulatory conflicts seek to increase uniformity and transparency regarding management and administration of Federal financial assistance across the Federal Government. Recipients, subrecipients, and auditors should not have to speculate or guess regarding which regulatory provisions govern a Federal program or specific Federal award.

Section 200.102—Exceptions

OMB proposes to revise § 200.102(b) regarding “statutory and regulatory exceptions” to include reference to the proposed change at § 200.101(d)(2) discussed above. OMB also proposes to revise § 200.102(c) regarding “Federal agency exceptions” to remove reference to fixed amount awards for reasons discussed elsewhere in this document. Additionally, OMB proposes to revise the authority for case-by-case exceptions made by a Federal agency to highlight examples of sections in which other approval by OMB is expressly required by this part, such as at § 200.340.

Section 200.106—Agency Implementation and Responsibilities

OMB proposes to revise § 200.106 to add a new paragraph (b) regarding agency responsibilities. The proposed paragraph references the responsibilities of Federal agencies under other parts of OMB's grants administration policies in the regulatory text of 2 CFR. This proposed change will further clarify that Federal agencies are responsible for adhering not only to part 200, but also to the other existing parts contained in subtitle A, including parts 25, 170, 175, 180, 182, 183, and 184.

Section 200.110—Effective Date

OMB proposes to revise § 200.110 to clarify and supplement the existing policy in paragraph (a). The proposed changes to paragraph (a) are discussed in further detail in section IV.C of this preamble regarding the proposed clarification of the regulatory structure of 2 CFR. As discussed above, the proposed changes to paragraph (a) are generally consistent with the existing regulatory text, but provide further clarity and context regarding its meaning.

Section 200.111—English Language

OMB proposes to revise § 200.111 to focus only on the basic requirement that all Federal announcements, applications, and Federal award information must be in the English language and must be in terms of U.S. dollars. This revision is intended to highlight the importance of recipients being able to understand Federal award requirements and program information in English to effectively meet program objectives and communicate with Federal officials about program and Federal financial assistance matters.

Section 200.112—Conflict of Interest

OMB proposes to revise § 200.112 to require, in the interest of transparency, that a recipient or subrecipient must disclose whether any employees who worked on the proposal or will support the resulting Federal award were employed by the awarding Federal agency within the preceding two years prior to application submission. OMB further clarifies that this information is for informational purposes and does not by itself represent a conflict of interest. This revision is intended to enhance transparency and allow Federal agencies to identify potential conflicts of interest arising from recent employment relationships between agency staff and recipient personnel. While the disclosure does not create a prohibition or automatic bar to participation, it provides awarding Federal agencies with visibility into situations where prior employment could give rise to questions about impartiality, preferential treatment, or insider knowledge. This change strengthens integrity standards in the award-making process while limiting burdens by requiring only disclosure, not additional approval or review.

Section 200.113—Mandatory Disclosures

OMB proposes to revise § 200.113 to require an Office of Inspector General to transmit any disclosures it receives under this section to the United States Attorney's Office for the District of Columbia within ten days of receipt. The purpose of this revision is to strengthen enforcement and accountability by ensuring that credible allegations of fraud or misconduct are promptly transmitted to prosecutorial authorities. This 10-day transmission standard would reduce delays and accelerate prosecutorial awareness, thereby reducing the risk that criminal (or civil) misconduct continues without the initiation of appropriate remedies if warranted.

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

Section 200.201—Use of Grants, Cooperative Agreements, and Contracts

OMB proposes to revise § 200.201(b) to eliminate the use of fixed amount awards unless otherwise authorized by Federal statute. Fixed amount awards were introduced in 2014 with the initial release of the Uniform Guidance. Extensive standards and guardrails regarding the use of fixed amount awards were never established in the regulatory text of part 200, sometimes resulting in inconsistent use or application of this type of award across Federal agencies. In response to public comments on the 2024 rulemaking, OMB attempted to establish additional standards and provisions related to fixed amount awards in the 2024 revisions. OMB now proposes to change course, and eliminate this type of award from part 200. OMB is concerned that use of this type of award can limit transparency and hinder effective oversight, and believes the limited standards for fixed amount awards in part 200 remain inadequate to address these concerns. The existing regulatory text also remains ambiguous with respect to application of the cost principles and certain other requirements to fixed amount awards, with important context, in some cases, only provided in the 2024 preamble. This proposed change will ensure increased consistency across Federal agencies in the execution and implementation of Federal financial assistance and promote greater transparency and oversight. OMB proposes to relocate the definition of “fixed amount awards” to this section. This proposed change is not intended to impact any existing fixed amount awards or subawards issued prior to the effective date of the proposed rule.

OMB also proposes a minor revision to § 200.201(a) to make Federal agencies the exclusive focus. OMB proposes to add a cross-reference to § 200.331, which more directly addresses how pass-through entities determine the appropriate type of agreement for a subaward or contract.

Section 200.202—Program Planning and Design

OMB proposes to revise § 200.202(a) to further clarify the elements of program design. As “goals and objectives” do not directly “provide” meaningful results, OMB proposes to clarify that the goals and objectives must “aim to achieve meaningful results.” OMB also proposes to clarify

that goals and objectives must be consistent with the public purpose of Federal authorizing legislation and aligned with administration policies and priorities.

OMB also proposes to add five new paragraphs. In § 200.202(c), OMB proposes to clarify that Federal agencies must develop Federal programs and implement activities under those programs in a manner that ensures compliance with all applicable restrictions on the use of Federal funds, including ensuring that Federal program funds are only used for public purposes of support authorized by law. This proposed addition reiterates what has long been a foundational principle of Federal financial assistance: funding must only be used to “carry out a public purpose of support or stimulation authorized by law,”⁶⁵ not for other extraneous activities or initiatives of recipient organizations. This proposed revision increases transparency and predictability for applicants and recipients by ensuring that program announcements are aligned with statutory authority from the outset. OMB proposes to include an example related to ensuring that program funds are not used to subsidize political activities or initiatives unrelated to authorized public purposes.

In § 200.202(d), OMB proposes to add a paragraph explaining that Federal agencies may, to the extent permitted by law, restrict eligibility among different types of nonprofit organizations. This proposed revision promotes transparency by ensuring applicants can determine eligibility without guessing or interpreting agency intent. In addition, the proposed revision ensures that such restrictions are not applied in a manner inconsistent with law. As a result, applicants will have greater clarity and confidence about eligibility requirements before spending time and resources on preparing applications.

In § 200.202(e), OMB proposes to add a paragraph to establish a government-wide policy governing eligibility and the use of international elements in Federal research and development awards. Through this proposed change, OMB seeks to strengthen alignment between Federal research and development funding and national priorities, enhance consistency across grant-making agencies, and clarify expectations for applicants, while preserving appropriate flexibility to support international engagement that demonstrably advances the interests of the United States. Consistent with OMB’s authorities discussed above,

which authorize the establishment of uniform policies governing the management of Federal financial assistance, this proposed change is intended to ensure consistent application of eligibility limitations applicable to research and development awards. OMB and the participating agencies seek to ensure that such awards remain aligned with the national interest of the United States. As with other sections of the regulatory text, the policy must be implemented consistent with relevant appropriations and authorizing statutes.

In § 200.202(f), OMB proposes to add a paragraph that encourages agencies to design awards as multi-year award when consistent with program objectives and subject to restrictions in law. Under this approach, awards would use budget periods longer than one year instead of requiring annual re-competition. Such awards must be structured to avoid Antideficiency Act violations. This proposed revision promotes efficiency and reduces unnecessary administrative burden on both agencies and recipients. In addition, the proposed revision provides greater funding stability for recipients, enabling long-term planning and execution of complex projects.

Lastly, in § 200.202(g), OMB proposes to add a paragraph that would require agencies that issue Federal financial assistance for scientific research to categorize those awards as basic research, applied research, and experimental development consistent with the definitions in OMB Circular A–11. This categorization would need to be communicated to the recipient and included in the terms and conditions of the award.

Section 200.204—Notices of Funding Opportunities

OMB proposes to revise in § 200.204 to clarify, supplement, and revise the government-wide policy regarding notices of funding opportunity, commonly referred to as NOFOs. OMB proposes to require that Federal agencies must publicly announce funding opportunities for *all* discretionary awards—not just those that will be openly competed. Consistent with the definition of discretionary award and longstanding practice, OMB also proposes to clarify that, as appropriate and consistent with authorizing law, funding opportunities may allow for open competition, limited competition, or selection on a non-competitive basis. In addition, OMB also proposes to require that applicants apply for awards using *Grants.gov* unless a program specific exception is

⁶⁵ See 31 U.S.C. 6304, 6305, and 6307.

expressly authorized by Federal statute or approved by the Federal agency head (or designee). OMB also highlights the importance of drafting NOFOs in plain language so that completing the application generally does not require the applicant to employ technical or legal experts. These proposed revisions streamline and standardize the policies for Federal funding opportunities, while also promoting transparency regarding the use of Federal tax dollars. In addition, the proposed revisions reduce barriers for participation by promoting greater accessibility for eligible applicants.

OMB also proposes to revise this section by adding a new paragraph (c) regarding use of Statements of Interest (SOI). The proposed paragraph encourages agencies to use SOIs as part of their NOFOs when high application volume or lengthy proposals are expected. These revisions are intended to reduce burden on applicants who would otherwise prepare lengthy, resource-intensive proposals with little chance of being selected for funding in some cases. The proposed revision would also improve efficiency by focusing agency review on the most competitive applicants.

OMB also proposes to revise the existing best practice that executive summaries should not exceed 500 words. OMB proposes to make this a requirement, but allow Federal agency heads (or their designee) to authorize exceptions. This proposed revision would more consistently provide applicants with a clear, concise overview of NOFOs while maintaining agency flexibility when needed to communicate complex opportunities. As a result, applicants will more often be able to quickly assess whether a program is relevant before reading the entire funding opportunity.

OMB also proposes to revise the requirement that opportunities be posted for no less than 30 days unless the agency determines that exigent circumstances exist. Under the proposed revision, agencies would be required to include such a determination in the NOFO. This proposed revision is intended to prevent unreasonably short application windows that disadvantage certain applicants. The proposed revision also promotes fairness, accountability by Federal agencies, and adequate preparation time for applicants. As a result, applicants will have a more predictable timeframe to prepare strong applications.

Lastly, OMB proposes several revisions related to the full text of funding opportunities. Specifically,

OMB proposes that Federal agencies, when feasible, should strive to ensure that NOFOs are accessible to a broad range of applicants, including those that have not previously received Federal awards. In addition, OMB proposes a new requirement that Federal agencies may be required to submit a report to OMB detailing the specific recipients or types of recipients that received Federal awards from the Federal agency over a specific time period. These proposed revisions strengthen clarity and accessibility obligations for agencies and provide OMB with oversight tools to ensure funding is not inappropriately concentrated among a narrow set of recipients.

Section 200.205—Federal Agency Review of Merit of Proposals

OMB proposes to revise § 200.205 to strengthen requirements for agency merit review and to establish a new pre-issuance review process consistent with Executive Order 14332. Under the proposed requirements for pre-issuance review, as part of the broader merit review process, agencies must ensure that proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest. Consistent with the Executive order, senior appointees must conduct these reviews and apply specific principles when evaluating proposals. These principles include ensuring that discretionary awards advance the President's policy priorities, prohibit the use of funds for discriminatory or otherwise impermissible purposes, and emphasize ensuring compliance with applicable law. Additionally, the proposed revisions encourage agencies to broaden the range of recipients, prioritize institutions demonstrating rigorous and reproducible scholarship, incorporate benchmarks for measuring performance of "Gold Standard Science," and direct agencies to weigh institutional commitment to research integrity when making award decisions. Proposed revisions in this section also clarify that peer review remains advisory and does not replace agency discretion. Finally, the proposed revisions clarify that agencies are not required to issue awards solely as a result of issuing a NOFO. These proposed updates are intended to enhance consistency across agencies, accountability, and alignment of Federal awards with administration priorities, while also reducing the risk of award being made contrary to statutory or policy requirements.

Section 200.206—Federal Agency Review of Risk Posed by Applicants

OMB proposes to revise § 200.206(b)(2) to expand the list of factors that agencies may consider when evaluating applicant risk. The changes clarify that agencies may assess an applicant's financial capacity to manage high-dollar awards, in addition to overall financial stability. The revisions also clarify that prior performance must be evaluated against the goals of the funding opportunity, and that both positive and negative outcomes must be given equal weight. OMB also proposes to add a provision that agencies may consider an applicant's history of questionable practices based on publicly available and verifiable information. In addition, OMB proposes to add a provision that agencies may consider an applicant's compliance with foreign gift and contract disclosure requirements, as applicable. Additionally, OMB proposes a new provision that agencies may consider an applicant's affiliations with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government. Lastly, OMB proposes a new provision that agencies should consider, as applicable, an applicant's compliance with foreign gift and contract disclosure requirements under section 117 of the Higher Education Act of 1965 (Pub. L. 89-329, as amended, codified at 20 U.S.C. 1011f). The proposed revisions are intended to provide agencies with clearer authority to evaluate financial and organizational capacity, integrity, and institutional affiliations in order to mitigate risks and protect the integrity of Federal programs.

Section 200.207—Standard Application Requirements

OMB proposes to revise § 200.207 to clarify that Federal agencies must periodically review programmatic and administrative requirements specific to the agency, program, or award(s) to determine whether such requirements are unnecessary and not required by this part. Federal agencies should also update OMB annually on any such requirements that have been removed.

Section 200.208—Specific Conditions

OMB proposes to revise § 200.208 to clarify how agencies may apply, adjust, and remove specific conditions under Federal awards. OMB proposes to authorize agencies, subject to applicable law, to add or remove specific conditions throughout the period of performance based on the risk factors

identified in paragraph (c) or other factors associated with a recipient or program.

A new requirement is proposed to require that any such adjustments based on any of the factors listed in paragraph (c) must occur within 15 calendar days after the agency's determination. The existing regulatory text already preserves the right of agencies to impose specific conditions based on these enumerated factors, which recipients knowingly accept when they agree to receive awards. OMB also proposes to clarify that specific conditions not based on factors in paragraph (c) may be added or removed during the period of performance only with the agreement of the recipient.

In § 200.208(d), OMB also proposes to expand the list of examples of specific conditions to include requiring information on payments to contractors or vendors, or financial integrity-related site visits. These examples are intended to provide agencies with more practical tools to address risk identified during the administration of Federal awards.

At § 200.208(f), OMB also proposes a new paragraph recognizing that agencies may impose program-level specific conditions when elevated programmatic risks are identified across a Federal program. The proposed text explains that agencies may remove such conditions once the underlying risks have been resolved, thereby allowing the use of program-level conditions to remain tied to ongoing risk management rather than continuing indefinitely. Collectively, these proposed changes provide agencies with greater flexibility to manage risk during award administration while establishing safeguards related to transparency and fairness.

Section 200.211—Information Contained in the Federal Award

OMB proposes to revise § 200.211 to clarify that Federal agencies must always include the termination provisions under § 200.340 in each Federal award or expressly incorporate them by reference, and must inform recipients of any additional termination provisions that apply to the award. This revision is intended to ensure recipients are always clearly and unambiguously informed of the potential for termination under § 200.340, including termination based on discretion of the Federal agency. OMB also proposes deleting the reference to providing “a copy of the terms and conditions” to the recipient upon request. This requirement is outdated given the access that applicants and recipients now have to general terms and conditions on the

internet. To the extent that applicable general term and conditions are not available on the internet, agencies would be responsible for providing them to the recipient—typically in electronic form—with the Federal award instrument. Federal agencies would still be permitted to mail a hard copy of the terms and conditions to recipients upon request even with removal of this provision, but would not be required to provided that the recipient has electronic access.

Section 200.216—Prohibition of Certain Equipment, Services, and Systems

OMB proposes to revise § 200.216 to incorporate a new legal requirement related to the use of unmanned aircraft systems procured with Federal financial assistance. First, OMB proposes amending the section header to reflect a broader scope that continues to include, but is no longer limited to, telecommunications and video surveillance. A new paragraph (a) is proposed to appropriately frame the existing prohibition on certain telecommunications and video surveillance equipment or services. OMB also proposes removing the existing paragraph (d). Although still technically a legal requirement, considering that the statute has been in effect since 2020 and Federal agencies are unlikely to still be funding a transition to different systems, OMB considers this language to be outdated and no longer necessary for express inclusion in 2 CFR.

OMB proposes to add a new paragraph (b) in § 200.216 under the header: “Prohibition on procurement and operation of prohibited unmanned aircraft systems.” This paragraph will implement the requirements of section 1825 of the American Security Drone Act of 2023 (Pub. L. 118–31). This statute prohibits Federal agencies from issuing Federal financial assistance that results in the procurement of unmanned aircraft systems prohibited by the Federal Acquisition Security Council (FASC), and requires recipients and subrecipients to implement specific safeguards and compliance measures for these systems. The statutory requirements became effective on December 22, 2025. Thus, agencies, recipients, and subrecipients should be aware that the statute already applies even before the proposed revision of this section becomes final. See OMB Memorandum M–26–02 dated November 21, 2025, “Ensuring Government Use of Secure Unmanned Aircraft Systems and Supporting United States Producers.”

Section 200.218—Prohibition of Using Federal Awards To Promote or Support Theories of Disparate-Impact Liability

OMB proposes a new § 200.218 related to Executive Order 14281, “Restoring Equality of Opportunity and Meritocracy.” Consistent with the Executive order, this section proposes to establish a government-wide policy in 2 CFR regarding use of Federal financial assistance to promote or support theories that impose disparate-impact liability based on federally protected characteristics such as race, sex, or age. OMB proposes to direct agencies and pass-through entities, to the maximum extent permitted by law, to ensure that awards are administered in a manner that does not promote or support theories of disparate-impact liability, including by not issuing terms, conditions, or guidance that would advance theories of disparate-impact liability. Recipients and subrecipients are also directed to avoid using Federal award funds for this purpose unless expressly required by law. OMB proposes to recognize an exception related to analysis for internal use if the activities are not funded by the Federal award and not used in connection with activities under the award. OMB proposes a definition of disparate-impact liability to ensure clarity and consistency. The proposed definition is generally consistent with the Executive order. These proposed revisions are intended to align government-wide administration of Federal financial assistance with administration policy and to reinforce the principle that merit-based opportunity—rather than theories of disparate-impact liability or other forms of unlawful discrimination based on race or other protected characteristics—will govern the administration of Federal awards.

The legal authority for this section (hereinafter referred to as the “Disparate-Impact Provision”) is similar to the authority for including the unlawful DEI provision in § 200.300, as both are generally intended to prevent discrimination on the basis of federally protected characteristics. To limit repetition in this preamble, OMB includes further analysis of the Disparate-Impact Provision under § 200.300 in connection with the unlawful DEI provision, including analysis of legal authority and related considerations.⁶⁶

⁶⁶ See also 90 FR 57141 (Dec. 10, 2025) (rule amending DOJ's implementing regulations for Title VI of the Civil Rights Act of 1964 to remove disparate-impact provisions); DOJ Press Release of Dec. 9, 2025, “Department of Justice Rule Restores

Section 200.219—Prohibition of Discriminatory Event Services

To ensure that Federal funds are not used, directly or indirectly, to subsidize violations of the First Amendment of the U.S. Constitution involving suppression of free speech of disfavored groups, OMB proposes a new § 200.219. The proposed provision would establish in the regulatory text that public entities that are a recipient or subrecipient of Federal financial assistance must not discriminate on the basis of the viewpoint, content, or subject matter of speech—including on the basis of political, ideological, or religious affiliation or perspective—in providing services for events, meetings, or other expressive activities. This requirement would ensure that public entities do not improperly use control over facilities or services to disadvantage or suppress the speech of disfavored groups. The proposed text further provides that it applies regardless of whether an event is directly funded by the Federal award if it occurs on property or facilities under the control of the public entity. As public entities are subject to the First Amendment in their own right, this broad application is constitutionally permissible.⁶⁷

The proposed additions are intended to prevent public entities from using Federal funds—including indirect costs used for buildings and facilities—in a discriminatory manner. This requirement would further ensure that public entities receiving Federal awards do not use their control over facilities or services to disadvantage disfavored groups, such as colleges and universities charging additional fees—sometimes referred to as “heckler’s fees”—to provide security for conservative speakers.⁶⁸ Consistent with the First Amendment, the proposed language should not be construed to prohibit public entities from enforcing content- and viewpoint-neutral time, place, and manner restrictions, or from applying reasonable, viewpoint-neutral restrictions in nonpublic forums. If finalized, public entities must not seek

to evade these requirements through pretextual or post hoc forum classifications.

The proposed language in § 200.219 is not intended to alter the allowability of costs under subpart E, including costs associated with speakers or events. Rather, it would require that any fees, security costs, or other charges imposed in connection with events be applied in a viewpoint-neutral and consistent manner.

OMB also proposes to clarify application to non-public entities. To ensure that Federal funds are not used in a manner inconsistent with the First Amendment, OMB proposes to apply the requirements of paragraph (a) to non-public entities to the extent that the relevant activities are within the scope of a Federal program under which the non-public entity accepts a Federal award. Applying the prohibition to activities within the scope of a Federal program does not present constitutional concerns under the First Amendment, provided that the Federal agency does not seek to leverage funding to regulate speech outside the contours of the Federal program.⁶⁹ By knowingly accepting such a Federal award, the recipient or subrecipient acknowledges its ability to perform the federally funded activities in a manner consistent with law and its own constitutional rights. For example, if a non-public recipient or subrecipient agrees to accept a Federal award that includes hosting a public forum, it must comply with the terms and conditions of the Federal award in a viewpoint-neutral manner.

Proposed paragraph (b) must be implemented in full accordance with the U.S. Constitution. Outside of performance of award activities, the proposed revision must not be construed to require a non-public entity to make its property, facilities, or services available for speech, expression, or events in a manner that would either directly violate its First Amendment rights or otherwise require access or association that would constitute compelled speech or association under the U.S. Constitution. Consistent with law, a Federal agency may consider adjusting the terms and conditions of a Federal award to a non-public entity to clarify the application of this provision and to ensure that performance of required award activities can proceed consistent with law.

Section 200.220—Prohibition of Using Federal Funds for Covered Foreign Collaborations

To protect the national security interests of the United States and to ensure consistent implementation of longstanding statutory restrictions, OMB proposes a new § 200.220 to prohibit the obligation or expenditure of Federal funds to support certain foreign collaborations involving covered foreign countries or covered foreign entities.

Some Federal statutes direct Federal agencies to restrict the use of appropriated funds for bilateral or multilateral activities with foreign adversaries and entities affiliated with foreign military or intelligence services. Most notably, section 1340 (a) of the “Department of Defense and Full-Year Continuing Appropriations Act” for fiscal year 2011 (Pub. L. 112–10) (commonly referred to as the “Wolf Amendment”) prohibited the National Aeronautics and Space Administration and the Office of Science and Technology Policy from using appropriated funds to develop, design, plan, promulgate, implement, or execute any bilateral policy, program, order, or contract of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, absent specific statutory authorization. The Wolf Amendment has continued to apply as a rider in subsequent annual appropriations acts.⁷⁰

Federal financial assistance is frequently awarded through grants, cooperative agreements, and subawards that may support collaborative research, technical assistance, or programmatic activities involving foreign entities. While the Wolf Amendment only applies directly to specific agencies and appropriations, OMB proposes to find that a uniform regulatory standard, providing consistent application of these restrictions across Federal assistance programs, would reduce risk related to national security and program integrity for all agencies and the Federal Government as a whole.

The proposed § 200.220 establishes a government-wide baseline rule prohibiting recipients and subrecipients from using Federal funds to support bilateral or multilateral collaborations, agreements, programs, or activities with covered foreign countries or covered foreign entities, unless expressly authorized by Federal statute or

Equal Protection for All in Civil Rights Enforcement.”

⁶⁷ See, e.g., *Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661 (2010) (holding that public universities may adopt neutral, generally applicable access rules but cannot invoke their own expressive autonomy to exclude disfavored viewpoints); *Bd. of Regents of Univ. of Wisconsin Sys. v. Southworth*, 529 U.S. 217 (2000) (holding that viewpoint neutrality is mandatory when distributing student activity funds).

⁶⁸ See, e.g., Young America’s Foundation Press Release, “YAF Wins Landmark Free Speech Lawsuit, UC Berkeley To Pay \$70,000 And Rescind Unconstitutional Policies,” Dec. 3, 2018.

⁶⁹ See, e.g., *Agency for Int’l Dev. v. All. for Open Soc’y Int’l, Inc.*, 570 U.S. 205 (2013) (holding that, as a general matter, if a party objects to limits imposed by a grant, its recourse is to decline the funds).

⁷⁰ See, e.g., Public Law 117–103, sec. 526, which applied to the National Aeronautics and Space Administration (NASA), the Office of Science and Technology Policy (OSTP), and the National Space Council (NSC).

approved by the Federal agency in accordance with the proposed exception authority and applicable law. This provision is intended to ensure that Federal financial assistance is not used, directly or indirectly, to support activities that may pose a risk to U.S. national security, defense, or intelligence interests. Congress has expressly determined that such a risk exists in the case of some agencies.

The prohibition would apply regardless of whether Federal funds are used for direct programmatic activities, research, technical assistance, travel, or indirect costs allocable to such collaborations. This approach would ensure that restrictions on foreign collaboration—including those expressly required by law—are not circumvented through the structure of funding mechanisms or cost allocation practices.

The proposed rule also provides for limited exceptions where expressly authorized by Federal statute or where the head of the Federal agency (or designee) determines that the activity does not pose a risk to national security and is in the national interest of the United States. These exceptions are intended to preserve necessary agency discretion while ensuring that any departure from the general prohibition is subject to appropriate senior level review and accountability at grantmaking agencies. This provision does not prohibit recipients from engaging in foreign collaborations using non-Federal funds.

Subpart D—Post Federal Award Requirements

Section 200.300—Statutory and National Policy Requirements

OMB proposes to revise § 200.300 to streamline existing references to legal and policy obligations. OMB also proposes to supplement § 200.300 to reflect key administration policies and priorities.

1. Executive orders and Executive Branch guidance. In January 2025, President Trump issued a series of Executive orders (EOs) establishing a government-wide policies to, consistent with applicable law, end Federal funding for unlawful DEI programs, promotion of “gender ideology,” and the so-called “transition” of a child under 19 years of age from one sex to another. These include Executive Order 14151 of January 20, 2025, “Ending Radical and Wasteful Government DEI Programs and Preferencing” (DEI Executive Order);⁷¹ Executive Order 14173 of January 21, 2025, “Ending

Illegal Discrimination and Restoring Merit-Based Opportunity” (Ending Discrimination Executive Order);⁷² Executive Order 14168 of January 20, 2025, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” (Gender Ideology Executive Order);⁷³ and Executive Order 14187 of January 28, 2025, “Protecting Children from Chemical and Surgical Mutilation” (Protecting Children Executive Order). The President later issued Executive Order 14281 of April 23, 2025, “Restoring Equality of Opportunity and Meritocracy” (Restoring Equality Executive Order).

On March 21, 2025, the Department of Justice (DOJ) issued guidance to all Federal agencies regarding implementation of EOs 14151 and 14173 (March 2025 DOJ Guidance).⁷⁴ Subsequently, on July 29, 2025, DOJ issued additional guidance regarding unlawful discrimination (July 2025 DOJ Guidance).⁷⁵ The July 2025 DOJ Guidance was intended to ensure that recipients of Federal funding do not engage in unlawful discrimination.⁷⁶ In particular, it clarified that Federal antidiscrimination laws apply to programs or initiatives that involve discriminatory practices, including those labeled as DEI programs. Entities that receive Federal funds, like all other entities subject to Federal antidiscrimination laws, must ensure that their programs and activities comply with Federal law and do not discriminate on the basis of race, color, national origin, sex, religion, or other protected characteristics—no matter the program’s labels, objectives, or intentions. DOJ’s guidance emphasized the significant legal risks of initiatives that involve discrimination based on protected characteristics and offered non-binding best practices to help entities that receive Federal funds avoid the risk of violations and the revocation of Federal grant funding.⁷⁷ On

⁷² 90 FR 8633.

⁷³ 90 FR 8650.

⁷⁴ DOJ Memorandum of March 21, 2025, “Implementation of Executive Orders 14151 and 14173: Eliminating Unlawful DEI Programs in Federal Operations.”

⁷⁵ DOJ Memorandum of July 29, 2025, “Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination” (“July 2025 DOJ Guidance”).

⁷⁶ DOJ Press Release of Jul. 30, 2025, “Justice Department Releases Guidance for Recipients of Federal Funding Regarding Unlawful Discrimination.”

⁷⁷ For additional Executive Branch guidance regarding application of Federal anti-discrimination laws, see also U.S. Equal Employment Opportunity Commission (EEOC) Letter to the Fortune 500 Companies Regarding Title VII Compliance Related

September 12, 2025, OMB issued Memorandum M–25–33, which instructed agencies to follow the July 2025 DOJ Guidance when managing Federal programs and overseeing recipients of Federal funding. Most recently, on December 2, 2025, DOJ’s OLC released an opinion finding that certain race-based grant programs administered by the Department of Education violate the Fifth Amendment’s equal-protection component.⁷⁸

2. Proposed revisions. OMB, in consultation with DOJ and other agencies, proposes to amend paragraph (b) of § 200.300, to provide that, in administering Federal awards, to the maximum extent permitted by law, the Federal agency or pass-through entity must ensure that the Federal award is not used to fund, promote, encourage, subsidize, or facilitate:

- “Diversity, equity, and inclusion” (DEI) or “diversity, equity, inclusion, and accessibility” (DEIA) policies, principles, or practices that violate any applicable Federal anti-discrimination laws. This includes racial preferences or other forms of racial discrimination used by the recipient or subrecipient that violate any applicable Federal anti-discrimination laws, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation (the “Unlawful DEI Provision”);
- Gender ideology as defined in Executive Order 14168. Gender ideology includes theories or ideologies that deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic (the “Gender Ideology Provision”); or
- The so-called “transition” of a child under 19 years of age from one sex to another, including the chemical and surgical mutilation of children. The term “chemical and surgical mutilation” has the meaning provided in Executive Order 14187 (the “Protecting Children Provision”).

The qualifier “to the maximum extent permitted by law” is intended to ensure that Federal agencies give due consideration to applicable authorizing legislation for their programs when applying this provision. As discussed above, OMB also proposes a related

to DEI Initiatives, Feb. 26, 2026; and EEOC Questions and Answers about “What You Should Know About DEI-Related Discrimination at Work,” <https://www.eeoc.gov/wysk/what-you-should-know-about-dei-related-discrimination-work> (last visited April 14, 2026).

⁷⁸ Constitutionality of Race-Based Dep’t of Educ. Programs, 2025 WL 4055305 (Dec. 2, 2025).

⁷¹ 90 FR 8339.

provision at § 200.218 (the “Disparate-Impact Provision”).

The existing language in paragraph (a) of § 200.300 already provides that the Federal agency or pass-through entity “must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution” and “applicable Federal statutes and regulations,” including “those prohibiting discrimination.” The proposed amendments would clarify and emphasize specific applications of that principle consistent with direction in the President’s EOs and recent DOJ guidance. In addition, the proposed revisions would also reinforce that use of Federal funds must remain properly aligned with core public purposes authorized by law, not diverted to subsidizing radical political ideologies, harmful experimentation on American children,⁷⁹ or unlawful discrimination.

OMB also proposes to add revised language in § 200.300(a) clarifying that, in managing and administering Federal awards, no person otherwise eligible will be excluded from participation in, unlawfully denied the benefits of, or otherwise subjected to unlawful discrimination in the administration of Federal programs, activities, projects, assistance, and services. Such non-discrimination language would encompass requirements, as applicable, not to discriminate on various bases, including race, color, national origin, disability, sex, religion, or conscience.

OMB also proposes to amend paragraphs (b) and (c) of the 2024 version of § 200.300 to remove commentary on the Supreme Court’s decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020). OMB proposes to find that this commentary is unnecessary within the government-wide regulatory text, and no longer consistent with Administration policy. The Gender Ideology Executive Order explained at section (3)(f) that the prior Administration’s position regarding *Bostock v. Clayton County* is legally untenable and has harmed women. The order also directed the Attorney General to issue guidance to agencies to correct the misapplication of the Supreme Court’s decision, and to assist agencies in protecting sex-based distinctions. The Acting Associate Attorney General issued guidance to the DOJ Civil Rights Division on February 12, 2025 clarifying

DOJ’s position regarding *Bostock v. Clayton County* (“February 2025 Bostock Memo”). Consistent with the February 2025 Bostock Memo and the July 2025 DOJ Guidance, Federal agencies may decide what additional guidance, if any, to provide recipients of Federal financial assistance regarding the Supreme Court’s decision in *Bostock v. Clayton County*. To the extent additional government-wide guidance regarding the decision is provided in the future, it would most likely come from the Attorney General or the Civil Rights Division at DOJ.

Finally, OMB proposes to add a new paragraph (c) regarding non-discrimination against faith-based organizations. The proposed paragraph (c) provides that Federal agencies and pass-through entities may not discriminate against or in favor of an applicant on the basis of the organization’s religious character, affiliation, exercise, or lack thereof, nor on the basis of conduct that would not be considered ground to favor or disfavor a similarly situated secular organization. It also provides that faith-based organizations are eligible to apply for Federal financial assistance on the same basis as any other organization. It also explains that applicants that meet all eligibility requirements may be considered for a Federal award under a notice of funding opportunity.

In both the existing and proposed versions of § 200.300(a), the examples of laws applicable to Federal awards include “religious liberty [laws] . . . and those [laws] prohibiting discrimination.” All Federal agencies must comply with the Religious Freedom Restoration Act (RFRA) (42 U.S.C. 2000bb, *et seq.*) and any applicable statutes prohibiting discrimination on the basis of religion or protecting the exercise of conscience. The First Amendment, RFRA, and applicable statutes prohibiting discrimination based on religion or protecting the exercise of conscience require Federal agencies, pass-through entities, recipients, and subrecipients to respect the exercise of religion. This includes considering and providing reasonable accommodations or exemptions for religious or conscience-based objections as required by law.⁸⁰ Where such legal protections apply, Federal agencies, pass-through entities, recipients, and subrecipients should not structure internal procedures in a way that would require discretionary case-

by-case approval of requests for an accommodation or exemption.⁸¹ Federal agencies, pass-through entities, recipients, and subrecipients should be aware of their ongoing statutory obligations regarding religious liberty and conscience. The proposed revision of § 200.300 is intended to clarify that conscience and religious liberty are protected under multiple statutes and the Federal Government will enforce such statutes as applicable.

Recent and ongoing litigation regarding some of the topics addressed in § 200.300 indicates the need for a clear regulatory framework reflecting administration policy that can be uniformly applied by Federal agencies to recipients of Federal financial assistance. By engaging in N&C rulemaking, OMB seeks to provide clarity regarding government-wide policies, consider public input, and arrive at a final policy that is consistent with law, including longstanding legal principles applicable to Federal financial assistance.

3. Authorities of OMB and agencies. OMB’s legal authorities for this rulemaking are discussed in various sections of this preamble, and need not be repeated here at length. Generally, OMB relies on authorities including 31 U.S.C. 503 and 31 U.S.C. 6307 to establish government-wide policies and requirements related to the management of Federal financial assistance across all Federal agencies. These provisions authorize OMB to set uniform conditions on Federal awards to ensure that Federal funds are expended in accordance with U.S. law and policy.

In addition, Congress has broadly authorized Federal agencies—including those participating in this rulemaking—to enforce Federal nondiscrimination laws in their assistance programs. Recipient of Federal financial assistance must comply with applicable civil rights laws, including Title VI of the Civil Rights Act of 1964, Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and the Equal Protection Clause of the Fourteenth Amendment.⁸² OMB’s statutory authority includes coordinating such cross-cutting requirements as applied to

⁸¹ A “case-by-case exemption procedure leaves religious organizations unable to predict their legal exposure” and does not “further[] any compelling antidiscrimination interests.” *Catholic Benefits Ass’n v. Kennedy*, No. 3:23-cv-00203-PDW-ARS (D.N.D. June 5, 2025), Dkt. 78 at 14. See also Catholic Benefits Association, “CBA Permanently Protected from Federal Gender Transition Mandates,” Jun. 9, 2025.

⁸² See July 2025 DOJ Guidance.

⁷⁹ White House Fact Sheet of Apr. 28, 2025, “Report to the President on Protecting Children from Surgical and Chemical Mutilation Executive Summary.”

⁸⁰ See, e.g., *Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682 (2014) (holding that RFRA requires the government to use the least restrictive means when substantially burdening religious exercise).

administration of Federal financial assistance.

In designing assistance programs and making new Federal awards, it is both permissible and required for Federal agencies to review proposed uses of funds to ensure they remain aligned with Congressional intent, and are not improperly diverted to subsidizing activities that fall outside of public purposes authorized by law—especially if those activities conflict with key administration policies expressed in EOs. The use of Federal funds must always remain consistent with the purpose of appropriations and the authorizing program statutes of the Federal agency. See, for example, 31 U.S.C. 1301(a) (commonly referred to as the “Purpose Statute”). The Federal Grants and Cooperative Agreements Act of 1977—which authorizes OMB to provide government-wide guidelines “to promote consistent and efficient use” of grants and cooperative agreements—also recognizes that Federal awards must be used to “carry out a public purpose of support or stimulation authorized by law.” 31 U.S.C. 6304, 6305, and 6307. Federal agencies are not required to subsidize activities that fall outside of the core public purposes of the programs they administer. OMB is not aware of Federal laws that expressly require funding the relevant activities referenced in the proposed regulatory text of § 200.300. Multiple Federal statutes, however, support not funding them, including Federal nondiscrimination laws and other laws referenced in relevant EOs and the July 2025 DOJ Guidance.

The EOs discussed above also provide further indication of Executive Branch policy relevant to these proposals to be implemented consistent with law. While EOs themselves do not supersede statutes, they guide Executive Branch policies and actions where discretion exists under statute. Here, OMB and the participating agencies are using their discretion to shape financial assistance policy consistent with applicable law and the clear direction from the President provided in the recent EOs. Similar to the EOs, the proposed rule expressly includes the qualifier “to the maximum extent permitted by law” to recognize that particular assistance programs could have purposes, requirements, or limitations affecting application of this provision—although, as discussed below, that generally should not occur based on the way OMB has designed the proposed regulatory text.

The proposed revisions in § 200.300 are consistent with relevant authorizing laws. By defining public purposes for

particular assistance programs, Congress certainly afforded executive agencies with authority to condition Federal awards to only be used for those congressionally-sanctioned purposes, and not for extraneous ideological activities inconsistent with anti-discrimination laws or Executive Branch policy. Discretion to attach award conditions can be analyzed by reference to both authorizing legislation for particular assistance programs and other government-wide legislation that applies to all assistance programs, such as Federal anti-discrimination laws and OMB’s authorities related to providing coordinated requirements for the management and administration of Federal financial assistance across the Federal Government.

Based on the authorities of OMB and agencies summarized above, Congress has afforded the Executive Branch discretion to establish the proposed provisions, which ensure that award funds are used solely for authorized public purposes and not for other extraneous activities that conflict with anti-discrimination laws or Executive Branch policy. Unlike a hypothetical award condition designed to induce recipients to undertake activities unrelated to the underlying purposes of a particular Federal award program, these provisions are designed to ensure that Federal funds are *only* used for authorized public purposes—not ideological side missions that are misaligned with Federal law and policy, including program goals and objectives as designed by Federal agencies in accordance with law. Activities performed under Federal awards must be aligned with both relevant legislation for assistance programs and the discretionary design of those programs by Federal agencies within legislative bounds. Under the proposed text, OMB will clarify that award funds must not be used in support of activities that violate Federal anti-discrimination laws, promote divisive ideologies unrelated to program goals and objectives, or are otherwise unrelated to Federal agency’s discretionary design of programs to satisfy core public purposes authorized by law.

4. *Clear and unambiguous incorporation in award agreements.* By codifying the provisions in 2 CFR, and incorporating them in new award agreements, applicants and recipients will be provided with clear and unambiguous notice of their applicability. The Supreme Court has explained that if “Congress intends to impose a condition on the grant of federal [funds], it must do so unambiguously.” *Pennhurst State Sch.*

& Hosp. v. Halderman, 451 U.S. 1, 17 (1981). The Court has further explained that “Congress must express clearly its intent to impose conditions on the grant of federal funds so that the States can knowingly decide whether or not to accept those funds.” *Id.* at 24. The *Pennhurst* notice principle also generally applies to an executive agency’s discretionary decision to impose conditions on awards based on its discretion available under law. By defining these parameters in the regulatory text of 2 CFR based on the statutory authorities outlined above, OMB and the participating agencies will further ensure that such conditions are unambiguously incorporated by the Federal agencies in award agreements.

The formal codification of the principles in regulation will eliminate any ambiguity for the Federal grants community regarding what conditions apply to Federal awards on these topics. Following issuance of a final rule, a recipient will have no basis to claim that it was unaware that, for example, DEI practices that violate Federal anti-discrimination laws, such as disparate treatment on the basis of race or sex, would jeopardize its Federal funding. Even under the existing version of OMB’s guidance, there is already little or no basis for such claims considering that the relevant principles arise under long-standing anti-discrimination statutes already referenced in the regulatory text, governing constitutional principles, and binding Supreme Court precedent. See, for example, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181 (2023) (“*Students for Fair Admissions*”). The principles were also recently highlighted and reinforced by a series of high-profile Presidential EOs and guidance documents from DOJ. Following formal codification of these principles in 2 CFR through issuance of a final rule, OMB will make these conditions even more clear and unambiguous to all applicants for and recipients of financial assistance. This promotes fairness, as all applicants will know the rules upfront when applying for and accepting new awards. It will also avoid the “unfair surprise” concerns discussed in *Pennhurst* and similar cases.

5. *Spending Clause framework.* The proposed revisions are also consistent with established jurisprudence related to the Spending Clause. In *South Dakota v. Dole*, the Supreme Court outlined the framework governing the authority of Congress under the Spending Clause to attach funding conditions to Federal award programs. 483 U.S. 203 (1987). Under this framework, a funding

condition must: (1) promote “the general welfare;” (2) be clear and unambiguous so that recipients can “knowingly” accept the term; (3) be reasonably related “to the federal interest in particular national projects or programs” at issue (or “reasonably calculated” to support “a purpose for which the funds are expended”); (4) not induce recipients to engage in activities “that would themselves be unconstitutional;” and (5) not be unduly coercive such that “pressure turns into compulsion.” *Id.*, at 207–11 (quotations omitted). Because executive authority to attach funding conditions to assistance awards is derived from the enactment of legislation by Congress, evaluating executive authority to attach such conditions also generally involves consideration of this framework. The proposed amendment of § 200.300 is well within the bounds of the framework provided in *Dole*.

First, the proposed revision promotes the general welfare by ensuring that Federal funds are not used to undermine the U.S. Constitution or Federal anti-discrimination laws, to support divisive ideologies misaligned with core purposes of discretionary assistance programs and Executive Branch policy, or to harm minors. Ensuring that Federal tax dollars are only used for purposes authorized by the Federal Government—and not for extraneous ideological missions unrelated to Federal awards—certainly promotes the general welfare.

Second, the proposed rule is designed to clearly define the prohibited activities in the regulatory text of 2 CFR and Federal awards made after its effective date. This satisfies the requirement to allow recipients to “knowingly” accept the provisions. See also *Pennhurst*, 451 U.S., at 17. Further discussion of the *Pennhurst* notice principle as applied to § 200.300 is provided in the immediately preceding section of this analysis.

Third, the amended provision is designed to ensure that activities performed under a Federal award remain aligned with the “federal interest” in particular appropriations and program statutes. See also *New York v. United States*, 505 U.S. 144, 167 (1992) (grant “conditions must (among other requirements) bear some relationship to the purpose of the federal spending”). In other words, the provision seeks to ensure that Federal funds are only used for the core public purposes for which the funds are expended, and not for illegal discrimination or promoting divisive ideologies or harmful practices. The provision would further ensure that

activities carried out under Federal awards are reasonably related to the Federal interest in the project or program at issue, and not improperly diverted to other activities or ideological initiatives unrelated to the purposes authorized by Congress and implemented by discretion of the Executive Branch. There is a strong Federal interest in ensuring that award activities do not drift away from authorized public purposes into activities that conflict with key Executive Branch policies expressed in Presidential Executive orders and reflected in program design by agencies. Thus, preventing violations of nondiscrimination laws, avoiding circumstances in which Federal award funds are improperly used to support divisive ideologies misaligned with core public purposes authorized by law, and protecting the health and safety of children are all Federal interests applicable to all discretionary assistance programs.

To the extent that some as-yet unidentified assistance program expressly required performance of such activities without violating the U.S. Constitution, the proposed qualifier “to the maximum extent permitted by law” could apply in those circumstances. The government-wide presumption, however, would be that Federal financial assistance programs will not be designed or administered by Federal agencies to support such activities, which are not expressly authorized by Congress and conflict with Executive Branch policy. All statutes must be administered in accordance with the U.S. Constitution and Federal anti-discrimination laws, and OMB is not aware of legislation establishing an entitlement to funds for the purposes of unlawful discrimination, promoting “gender ideology” as defined by Executive Order 14168, or assisting in the so-called “transition” of a child from one sex to another as discussed in Executive Order 14187.

Fourth, the proposed revisions do not induce unconstitutional conduct. On the contrary, the Unlawful DEI Provision and related Disparate-Impact Provision at § 200.218 align with the Constitution’s equal protection principles by clarifying that Federal awards may not be used to support activities involving unlawful discrimination based on protected characteristics—as discussed in more detail in section 8.a below. Regarding the Protecting Children Provision, no court has recognized a constitutional entitlement to such procedures, and certainly not at the public expense. Moreover, with regard to all provisions,

the proposed regulatory text for this rulemaking merely says that Federal award funds may not be used for certain defined activities—which will generally fall outside of the authorized public purposes a particular award program is intended to support—without attempting to more broadly regulate other activities beyond the scope of the Federal award.

Fifth and finally, the proposed revision is not unduly coercive. An applicant or prospective recipient may simply opt out of particular Federal award or program if it cannot manage to design its project or program in a way that does not violate Federal anti-discrimination laws or use Federal funds to promote gender ideology or assist in sex-transition procedures for minors.

6. Permissibility under the First Amendment. The proposed revisions also do not implicate free speech concerns under the First Amendment. All of OMB’s proposed revisions related to national policy are merely providing clear notice to applicants for, and recipients of, Federal awards that, unless expressly required by law, executive agencies do not intend to use their discretionary authority to fund these categories of activities. As such, the proposed provisions do not infringe on protected speech—they merely set parameters for Federal *funding* or *subsidization* of speech, clarifying that the Federal Government will not subsidize certain categories of ideological activities. All executive agencies have received clear policy direction through the President’s Executive orders and other executive actions, which they will follow in their administration of discretionary award programs. The proposed provisions only apply to activities performed under the federally funded award programs, and do not penalize or scrutinize recipients’ speech outside of the Federal award.

The Supreme Court has long been clear that the First Amendment provides the government significant flexibility when it acts as patron to *subsidize* speech under Federal spending programs, as opposed to when it acts as sovereign to regulate speech beyond the scope of such programs. The distinction that has emerged from the Supreme Court regarding whether a funding condition may result in an unconstitutional burden on First Amendment rights is between: (i) conditions that define the limits of the government spending program by specifying the activities the Federal Government wants to subsidize; and (ii) conditions that seek to leverage funding to regulate speech outside the contours

of the Federal program itself. *Agency for Int'l Dev. v. All. for Open Soc'y Int'l, Inc.*, 570 U.S. 205, 206, 215–15 (2013). The “decision not to subsidize the exercise of a fundamental right does not infringe the right.” *Regan v. Taxation with Representation of Washington*, 461 U.S. 540, 549 (1983). The government is permitted to make a value judgment regarding the public interest and “implement that [value] judgment by the allocation of public funds.” *Rust v. Sullivan*, 500 U.S. 173, 192–93 (1991) (quoting *Maier v. Roe*, 432 U.S. 464, 474 (1977)). Thus, when acting as a patron to subsidize speech—using discretion to fund certain activities under a Federal program and not others—the government can choose which activities to fund without implicating concerns under the First Amendment. “[C]ho[osing] to fund one activity to the exclusion of the other” is permissible. *National Endowment for the Arts v. Finley*, 524 U.S. 569, 588 (1988) (citation omitted). The “Government can, without violating the Constitution, selectively fund a program to encourage certain activities it believes to be in the public interest.” *Rust* at 193. Conversely, the government is not required to subsidize activities that it does not wish to promote. *Id.* Constitutional concerns arise only when the Federal Government is using the funding to affect speech beyond the scope of the federally-funded spending program. See also *California ex rel. Becerra v. Azar*, 950 F.3d 1067, 1093 n.24 (9th Cir. 2020) (“The Supreme Court has repeatedly reaffirmed . . . that the government may constitutionally preclude recipients of federal funds from addressing specified subjects so long as the limitation does not interfere with a recipient’s conduct outside the scope of the federally funded program.”).

The proposed revisions to § 200.300 are focused on activities within the scope of federally-funded programs. In the previous administration, executive agencies frequently chose to subsidize and expressly prioritize projects based on their ideological alignment with the categories of activities discussed in the proposed version of § 200.300. See, for example, E.O. 13985, sec. 1, 86 FR 7009, 7009 (Jan. 25, 2021) (“It is therefore the policy of [the Biden] Administration that the Federal Government should pursue a comprehensive approach to advancing equity . . .”). In this administration, executive agencies will continue to use their discretionary authorities in a manner consistent with current Executive Branch policy. If executive agencies were entitled to

subsidize those types of activities during the previous administration, there is no constitutional basis to prevent the government from reaching a different policy determination regarding which activities to fund during this administration. For the purposes of the proposed regulatory text for this rulemaking—which is all that is relevant to this analysis—the government does not propose to deny recipients the right to pursue such activities outside of activities performed under their Federal awards. In the context of Federal grants administration, OMB and Federal agencies propose to make a constitutionally permissible decision not to subsidize those activities with Federal funds unless expressly required by law. The First Amendment does not require providing taxpayer resources to support, promote, or advocate for policies that the government finds are not in the public interest. Selective government funding that leaves private entities free to express themselves as they wish outside of Federal award activities, and using their own resources, does not implicate concerns under the First Amendment.

7. Permissibility under equal protection principles. The proposed revisions are permissible under the equal protection component of Fifth Amendment’s Due Process Clause. The revisions provide clear notice that the government will not fund these categories of activities, but do not direct agencies to take actions that discriminate on the basis of protected characteristics such as race or sex.

First, the Unlawful DEI and Disparate-Impact Provisions seek to ensure that unlawful discrimination is not permitted to continue in the future. For example, the Equal Protection doctrine rejects the notion that the Constitution permits—let alone requires—the Government to “intentionally allocate preference to those who may have little in common with one another but the color of their skin.” See *Students for Fair Admissions*, 600 U.S. 181, 200 (2023) (citation and quotation omitted). OMB’s intent in proposing these provisions is to prevent unlawful discrimination from occurring under federally-funded programs. Further discussion of the Unlawful DEI provision is provided in section 8.a below.

Second, the Gender Ideology and Protecting Children provisions distinguish between the concept of biological “sex” and other amorphous concepts associated with gender ideology. These provisions give notice that executive branch agencies will no longer use their discretionary

authorities to subsidize projects or activities promoting gender ideology, including those seeking to replace the concept of biological “sex” with a divisive, unstable, and subjective concept of “gender identity.” The previous administration attempted to impose this contentious concept on all members of the American public through various funding streams, including by reinterpreting Federal sex-discrimination statutes for this purpose.⁸³ In doing so, it promoted and subsidized activities that diminished the rights, dignity, safety, and well-being of women; infringed on fundamental religious liberties; and caused life-long harm to vulnerable children. See Gender Ideology Executive Order, secs. 1 and 2; Protecting Children Executive Order, sec. 1. Pursuant to the President’s Executive orders, the Executive Branch no longer wishes to endorse the ideological doctrine that “sex” and self-assessed “gender identity” are interchangeable. The proposed revisions direct agencies to ensure that, to the extent permitted by law, Federal money is no longer used to fund programs or projects that violate Federal antidiscrimination laws or promote gender ideology.

The Supreme Court’s recent decision in *United States v. Skrametti*, 605 U.S. 495 (2025) is instructive in relation to the Gender Ideology and Protecting Children provisions. The Supreme Court evaluated a Tennessee law prohibiting medical interventions for “gender dysphoria, gender identity disorder, or gender incongruence” in minors. *Id.* at 495–7. The *Skrametti* plaintiffs argued that the law “discriminates on the basis of sex and transgender status” and could not withstand intermediate scrutiny. *Id.* at 520. The Supreme Court rejected these arguments and upheld Tennessee’s law on rational-basis review. It first held that Tennessee’s law does not classify based on sex because it “does not prohibit conduct for one sex that it permits for the other.” *Id.* at 497. Rather, the prohibition turns on the treatment of “gender dysphoria” and “applies regardless of a minor’s sex.” *Id.* at 511.

The same principle holds true for the proposed 2 CFR revisions. The proposed regulatory text gives notice that Federal funding will no longer be used to subsidize or promote the doctrine that sex and “gender identity” are interchangeable concepts—or other activities based on that doctrine such as harmful medical procedures performed

⁸³ See, e.g., Rachel N. Morrison, “Gender Identity Policy Under the Biden Administration,” *Federalist Society Review*, May 2, 2022.

on children. The notice regarding the Executive Branch's funding priorities does not discriminate on the basis of the sex of any group or individual. Rather, it applies equally to all.

8. Analysis of specific national policy provisions.

a. Unlawful DEI Provision (and related Disparate-Impact Provision). The proposed restriction on funding for unlawful DEI activities is based on the obligation of every Federal grant recipient to comply with Federal anti-discrimination laws as a condition of receiving Federal funds. See July 2025 DOJ Memorandum. Expressly stating this condition at § 200.300—and the related provision at § 200.218—is consistent with Federal law and well within OMB's authority to clarify and coordinate award conditions used by the Federal Government.

Government-wide coordination is needed to ensure that recipients of Federal awards do not continue to engage in unlawful discrimination. In recent years, the Federal Government has “turned a blind eye toward, or even encouraged, various discriminatory practices.”⁸⁴ For example, some recipients have adopted unlawful DEI initiatives or practices that include providing benefits or opportunities based on race or sex; imposing race-conscious quotas or objectives under a variety of names, labels, or proxies; or conducting training sessions that endorse and encourage racial stereotyping and scapegoating, promote unlawful discrimination, or create a hostile environment.⁸⁵

The Supreme Court's decision in *Students for Fair Admissions* reaffirmed that racially discriminatory practices are unlawful even if labeled as promoting “diversity” or “equity.” 600 U.S. 181 (2023).⁸⁶ Executive Order 14173 explains that “the Federal Government is charged with enforcing our civil-rights laws” and states plainly that the purpose of the order is to ensure that the Federal Government now fulfills that responsibility “by ending illegal preferences and discrimination.” Consistent with Supreme Court

precedent interpreting civil-rights statutes, protecting and enforcing civil rights includes ensuring that Federal funds are not used to support unlawful discrimination based on protected characteristics.⁸⁷ This rule reflects that principle and is intended to promote equal treatment consistent with the purposes of Federal civil-rights law. Similar principles are reaffirmed in the July 2025 DOJ Guidance and the OLC opinion dated December 2, 2025.⁸⁸

The proposed provisions at §§ 200.300 and 200.218 are consistent with the Federal Government's commitment to treat every American with equal dignity and respect discussed in Executive Order 14151, the principle of merit-based opportunity discussed in Executive Order 14173, and the principles regarding unlawful discrimination discussed in the July 2025 DOJ Guidance. The proposed provisions will provide clear notice to all recipients of the need to ensure that their programs and activities comply with Federal law and do not discriminate on the basis of race, color, national origin, sex, religion, or other protected characteristics—no matter the program's labels, objectives, or intentions. The proposed provisions benefit both recipients and the Federal Government by promoting consistency, transparency, and fairness through a uniform award condition. The provisions will put recipients on clear notice that such practices constitute a material breach of the Federal award, and further strengthen the government's rights to recover misused funds or terminate awards based on noncompliance.⁸⁹

Based on other public comments, OMB anticipates that some commenters for this rulemaking may contend that the Unlawful DEI Provision is excessively vague or open to misinterpretation, including by suggesting that it could be read to prohibit lawful activities under Federal awards that do not discriminate based on protected characteristics such as race or sex. Commenters should focus their attention on the regulatory text proposed in this document, which would prohibit Federal agencies from using Federal awards to “fund, promote, encourage, subsidize, or facilitate . . . policies, principles, or practices that violate any applicable Federal anti-discrimination laws.” This proposed text does not expand the scope of

applicable statutes. Rather, consistent with OMB's authorities to establish government-wide policies for the administration of Federal financial assistance, the proposed text clarifies how those requirements apply in the context of Federal awards and the responsibilities of agencies and recipients under part 200. It also reflects the established function of implementing regulations and the terms and conditions of Federal awards in ensuring that Federal financial assistance is administered and used in a manner consistent with statutory requirements and governing constitutional principles.

The July 2025 DOJ Guidance provides illustrative examples of practices that may violate underlying anti-discrimination statutes depending on the facts and circumstances of particular matters. The guidance reflects the longstanding Executive Branch practice of issuing interpretive guidance regarding the application of Federal anti-discrimination statutes in specific contexts. Whether a violation exists in any particular case would continue to be determined by reference to the governing legal standards under applicable anti-discrimination laws as interpreted in light of controlling Supreme Court precedent.

Consistent with longstanding Executive Branch practice, OMB's interpretation of Federal anti-discrimination laws in the context of this proposed rulemaking is informed in part by guidance issued by DOJ regarding the application of those laws. The principles and illustrative examples discussed in the July 2025 DOJ Guidance provide additional context regarding the application of those laws in certain circumstances. OMB's interpretation is also informed by the Supreme Court's decision in *Students for Fair Admissions*, which addresses the application of Federal anti-discrimination statutes in light of constitutional equal protection principles, and by the December 2, 2025 OLC opinion addressing the administration of Federal programs consistent with statutory requirements and governing limitations under the U.S. Constitution. Thus, commenters may also review those sources in reviewing and responding to this document.

OMB believes the regulatory text provides sufficient clarity regarding prohibited forms of discrimination, but seeks comment on whether the final rule should include additional discussion or elaboration in the regulatory text or preamble. The proposed regulatory text explains that

⁸⁴ July 2025 DOJ Guidance.

⁸⁵ See examples of unlawful discriminatory policies and practices in July 2025 DOJ Guidance.

⁸⁶ Specifically, the Court held that racial classifications by public institutions are subject to strict scrutiny and racial classifications by private institutions can serve as basis for revoking funding under Title VI. See also, e.g., *Ricci v. DeStefano*, 557 U.S. 557, 579 (2009) (“[E]xpress, race-based decision-making violates Title VII's command that employers cannot take adverse employment actions because of an individual's race.”); *Wtolu v. Guzman*, 999 F.3d 353,361 (6th Cir. 2021) (holding grant program with race and sex preferences is unlawful under Equal Protection Clause).

⁸⁷ EO 14281, sec. 1.

⁸⁸ 2025 WL 4055305 (Dec. 2, 2025).

⁸⁹ Additional grounds for terminating awards are also available under the existing and proposed versions of regulatory text in part 200.

unlawful DEI would include, for example, racial preferences or other forms of racial discrimination used by the recipient or subrecipient that violate any applicable Federal anti-discrimination laws, including circumstances in which race or intentional proxies for race are used as a selection criterion for employment or program participation. This example is not exhaustive, but reflects a major category of conduct addressed by the Supreme Court in *Students for Fair Admissions*. Thus, the proposed regulatory text clarifies that Federal awards may not be used to support activities involving disparate treatment based on protected characteristics under applicable law, including race or intentional proxies for race. Commenters may also consider the definitions and model contract clause set forth in E.O. 14398 of March 26, 2026, “Addressing DEI Discrimination by Federal Contractors,” and provide input regarding whether any similar language would be appropriate or informative in the context of this rulemaking, such as language further clarifying the application of disparate treatment standards in connection with activities under Federal awards.⁹⁰ OMB also seeks comment on whether such additional discussion or elaboration would be helpful to recipients and subrecipients in meeting their obligations under part 200 for activities carried out under Federal awards, including their internal control responsibilities under § 200.303. In addition, OMB seeks comment on whether further clarification would be helpful regarding the relationship between § 200.300 and other provisions of part 200—including § 200.204, § 200.211, § 200.303, and § 200.403—as well as the relationship between those provisions and the terms and conditions of Federal awards issued by Federal agencies pursuant to this proposed rulemaking.

Executive Branch agencies have long issued government-wide and program-specific regulations and guidance interpreting Federal civil rights requirements as applied to recipients of Federal financial assistance. This proposed rulemaking continues that established practice by clarifying how existing nondiscrimination requirements apply within the scope of Federally-funded activities. Consistent with longstanding Executive Branch practice, OMB seeks to ensure that Federal financial assistance is not used by recipients or subrecipients for

discriminatory policies or practices, including those that discriminate based on a person’s protected characteristics.

Although DOJ’s guidance is described as non-binding, OMB and Federal agencies intend to clarify through this N&C rulemaking process how applicable anti-discrimination laws apply to Federal financial assistance programs. Recipients and subrecipients should be aware that discriminatory practices already present compliance risks under existing anti-discrimination laws enforced by the Executive Branch.⁹¹ In light of the clarification provided through recent Executive Branch guidance—which would be given regulatory effect through this N&C rulemaking—recipients and subrecipients should not assume that practices previously viewed as consistent with prior Executive Branch guidance will necessarily satisfy applicable Federal anti-discrimination requirements as applied to Federal awards. Recipients and subrecipients should evaluate existing policies and practices in reference to the legal standards reflected in this rulemaking and the applicable anti-discrimination laws discussed above. Following issuance of a final rule, the policy proposed in this document will have regulatory effect as part of the government-wide regulations for Federal financial assistance set forth in 2 CFR.

b. Gender Ideology Provision. The proposed restriction on funding the promotion of gender ideology is based on ensuring that Federal awards are only used for public purposes authorized by law. Within legislative bounds, Federal agencies must also design their assistance programs and funding opportunities to be consistent with Executive Branch policy.

The Federal Government has no obligation to provide taxpayer funds to promote divisive and harmful ideologies. On the contrary, it has compelling reasons not to do so. As explained in Executive Order 14168, government-sponsored efforts “to eradicate the biological reality of sex” harm women by “depriving them of their dignity, safety, and well-being.” Various commenters have explained how such efforts also do significant harm to public trust in government.⁹²

⁹¹ See, e.g., July 2025 DOJ Guidance.

⁹² See, e.g., Sarah Parshall Perry, “The Uprising: Families Clash with Schools Over LGBTQ Propaganda,” Heritage Foundation, Jun. 22, 2023; Emilie Kao, “Safeguarding Parental Rights and Protecting Children from Federally Mandated Gender Ideology,” Heritage Foundation Backgrounder No. 3744, Jan. 10, 2023; Carl R. Trueman, “Gender Ideology and the Future of the

Rather than continuing to waste Federal funds in support of divisive gender ideologies, which harm women, have a corrosive effect on public trust in Federal grantmaking agencies, infringe on religious liberties, and fall outside of specifically enumerated purposes of authorizing legislation, the Federal Government should instead refocus its efforts more squarely on using Federal awards for core purposes authorized by law. Discretionary awards must also be channeled through an agency’s careful design of programs and funding opportunities for consistency with both law and, where applicable, administration policy priorities.⁹³ Ending government-sponsored promotion of divisive gender ideology is critical to scientific inquiry, public safety, and trust in government.⁹⁴

Consistent with the principles outlined in Executive Order 14168, the proposed provision will provide clear notice to recipients that promoting gender ideology is not something that the Federal Government wishes to fund as part of any Federal program. The proposed rule ensures that federally appropriated award funds—which are intended for purposes like education, research, and health—are not improperly diverted to purposes outside of the program’s approved scope as designed by Federal agencies consistent with authorizing law. Again, the proposal benefits both recipients and the Federal Government by establishing government-wide consistency through a uniform and transparent provision. Recipients will receive clear notice that using Federal award funds for unauthorized purposes related to promoting gender ideology will constitute a material breach of the Federal award, and the government’s rights to recover misused funds or terminate awards based on noncompliance will be further strengthened.⁹⁵

c. Protecting Children Provision. The proposed restriction on funding the so-called “transition” of a child under 19 years of age from one sex to another is also based on ensuring that Federal awards are only used for authorized public purposes. Within legislative bounds, Federal agencies must also design their assistance programs and funding opportunities to align with administration policy priorities.

Human Person.” Heritage Foundation, Mar. 20, 2023.

⁹³ EO 14332, sec. 4(b).

⁹⁴ EO 14168.

⁹⁵ Additional grounds for terminating awards are also available under the existing and proposed versions of regulatory text in part 200.

⁹⁰ E.O. 14398 applies to Federal procurement contracts and contract-like instruments.

This provision is also based on a compelling public welfare justification. As discussed in Executive Order 14187, “maiming and sterilizing a growing number of impressionable children under the radical and false claim that adults can change a child’s sex through a series of irreversible medical interventions” is a practice with “destructive and life-altering” consequences that “will be a stain on our Nation’s history.” The Federal Government has an obligation to avoid subsidizing what it considers to be unethical and unsafe practices with profound consequences on the lives and well-being of American children. Sex-rejecting procedures performed on children with profound and life-altering consequences fall in this category. Executive Order 14187 explained that a growing number of minors soon regret that they have undergone such procedures and begin to recognize the physical, financial, and psychological consequences that will follow them for the rest of their lives. The Executive Order labeled these interventions “chemical and surgical mutilation” of children, which reflects the administration’s conclusion that such activities are not legitimate healthcare warranting government financial support, but rather harmful experimentation on minors, which must end.

The legal basis for the prohibition is straightforward: there is no right or entitlement to receive these procedures at the public expense under Federal law, and the Federal Government will not—and has no legal obligation to—provide funding for them. The proposed rule does not deny any person a constitutional or statutory right because there is no such right under Federal law. For all of the reasons set forth in Executive Order 14187, the Federal Government has determined that providing assistance for such sex-rejecting procedures on children is not in the public interest—and it will not do so.⁹⁶

Consistent with the principles outlined in Executive Order 14187, the proposed provision will provide clear notice to recipients that the Federal Government will not provide funding for these practices. Once again, the proposal benefits both recipients and the Federal Government by establishing government-wide consistency through a uniform and transparent provision. Recipients will receive clear notice that

using Federal award funds for these purposes will constitute a material breach of the Federal award, and the government’s rights to recover misused funds or terminate awards based on noncompliance will be further strengthened.⁹⁷

9. *Conclusion.* OMB is aware that it is changing existing policy in §§ 200.300 and 200.218, but proposes to find that these changes are warranted for all of the reasons described in this document. The existing language in paragraph (a) of § 200.300 already provides that the Federal awarding agency must manage and administer Federal awards in full accordance with U.S. law. OMB’s proposed revisions related to unlawful discrimination clarify and emphasize specific applications of that principle consistent with underlying statutory authorities and recent policy direction from the Executive Branch regarding implementation and enforcement of those statutes. OMB’s proposed changes in this section are also designed to ensure that Federal funds are only used for core public purposes authorized by law and the terms and conditions of Federal awards, and not for other extraneous activities that conflict with key Executive Branch policies and priorities.

OMB recognizes that the factual findings in this document are inconsistent with certain factual findings and policy positions that it offered to support revisions of § 200.300 in 2024. OMB has provided a reasoned explanation above regarding its rationale for the new policies. OMB invites comments on the rationale provided in this document in relation to reasons that supported OMB policies in 2024 or earlier years. OMB will respond to such comments in the final rule.

Section 200.303—Internal Controls

OMB proposes a clarification in § 200.303(e) regarding confidential business information. Specifically, OMB proposes to include confidential business information as a type of information that a recipient or subrecipient must take reasonable cybersecurity and other measures to safeguard.

In § 200.303(a), OMB also proposes to delete the statement that internal controls should align with the guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control-Integrated Framework” issued by the

Committee of Sponsoring Organizations of the Treadway Commission (COSO). The U.S. Government Accountability Office (GAO)—under the Direction of the Comptroller General—is a legislative branch agency; its views regarding internal controls are not binding on Executive Branch regulations applicable to recipients and subrecipients of Federal awards. COSO is a private-sector organization. Directing recipients and subrecipients to follow dynamic standards issued by organizations outside of the Executive Branch is inconsistent with Administration policy and the longstanding notice and comment procedures used by OMB for updates to 2 CFR. See 2 CFR 1.230. OMB cannot—and does not desire to—delegate rulemaking authority to GAO or COSO regarding standards for internal control used by recipients and subrecipients of Federal financial assistance. This revision will clarify that the GAO and COSO frameworks do not apply to recipients or subrecipients as binding or expressly recommended standards. Federal agencies, auditors, recipients, and subrecipients may continue to consider these or other widely recognized frameworks as general reference points when evaluating the adequacy of internal controls.⁹⁸ OMB is only proposing to clarify that recipients and subrecipients have some degree of reasonable discretion regarding how to establish, document, and maintain effective internal control in ways that may not be fully consistent with the GAO or COSO frameworks. Recipients and subrecipients would not be required to adopt or follow any specific framework issued by these external organizations.

OMB proposes to add § 200.303(f) to require all recipients and subrecipients of Federal financial assistance to participate in the Department of Homeland Security’s E-verify program to confirm the employment eligibility of employees and contractors hired in or performing work in the United States under a Federal award. This additional safeguard would be implemented as part of the internal control responsibilities of the recipient or subrecipient. The Federal Government has applied the E-

⁹⁸ As authorized by the Federal Managers’ Financial Integrity Act (FMFIA) of 1982 (Pub. L. 97–255), as amended and codified at 31 U.S.C. 3512(c) and (d), and the Government Performance Results Act (GPRA) Modernization Act of 2010 (Pub. L. 111–352), OMB recently issued a revised framework for internal control applicable to Federal agencies through a revised version of OMB Circular No. A–123 (Mar. 10, 2026). This framework does not apply directly to the recipients and subrecipients of Federal awards, but illustrates internal control principles used across Federal programs by the Federal Government.

⁹⁶ See also HHS Gender Dysphoria Report of November 19, 2025, “Treatment for Pediatric Gender Dysphoria: Review of Evidence and Best Practices.”

⁹⁷ Additional grounds for terminating awards are also available under the existing and proposed versions of regulatory text in part 200.

verify program to Federal contractors for over 15 years.⁹⁹ OMB is now proposing to expand the application of the E-verify program to Federal financial assistance programs based on its government-wide financial management authorities discussed above. Although OMB is proposing to expand application of the program, the requirements under the program would otherwise apply in accordance with applicable Federal law and DHS program requirements. For entities and activities to which the E-Verify participation program is applied, OMB does not propose to alter existing exceptions or limitations recognized in DHS program requirements based on DHS authorities. OMB also does not propose to apply the program to activities unrelated to Federal awards. Consistent with the Immigration and Nationality Act (8 U.S.C. 1324a), which prohibits employers from knowingly hiring or continuing to employ unauthorized aliens and requires employers to verify employment eligibility, this provision is intended to strengthen compliance with Federal employment eligibility requirements for individuals performing work under Federal awards.

Lastly, OMB proposes to add § 200.303(g) to clarify that States must conduct pre-payment verification checks prior to disbursing Federal funds. Specifically, States that are recipients of Federal financial assistance must review available data sources with relevant information to verify the eligibility of payees and prevent improper payments. Such reviews may be conducted through the Department of the Treasury's Do Not Pay (DNP) system, or through an alternative payment screening process that provides protection against improper payments. This proposed revision would not require States to adopt specific payment systems or technologies. The requirement to conduct eligibility reviews for payees is not intended to substitute or replace any required program specific requirements. Consistent with the Payment Integrity Information Act of 2019 (31 U.S.C. 3351–3356), which establishes government-wide requirements to prevent and reduce improper payments, and the Do Not Pay Initiative under 31 U.S.C. 3354, this provision is intended to strengthen internal controls over Federal funds by requiring States, as recipients of Federal financial assistance, to review available data

sources prior to disbursing payments made with Federal funds.

Section 200.305—Federal Payment

OMB proposes to revise § 200.305 to require Federal agencies to verify recipient eligibility through Treasury's Do Not Pay (DNP) system before making any disbursement of any Federal payment. Consistent with the Payment Integrity Information Act of 2019 (PIIA),¹⁰⁰ this addition is intended to strengthen oversight and prevent improper payments.

Consistent with section 3 of Executive Order 14222, "Implementing the President's 'Department of Government Efficiency' Cost Efficiency Initiative," OMB also proposes language that requires payment requests from recipients and subrecipients other than States to include justifications describing the purpose of the payment and the specific award-related work it supports. Under the proposed text, agencies must collect this information once appropriate systems are in place. These proposed changes would increase accountability for Federal disbursements while ensuring funds are tied to measurable award activities and outcomes.

Section 200.306—Cost Sharing

OMB proposes to revise § 200.306 to relocate paragraph (a) on voluntary committed cost sharing to paragraph (j). This policy fits better next to paragraph (k), which addresses voluntary uncommitted cost sharing for institutions of higher education (IHE).

Section 200.318—General Procurement Standards

OMB proposes to revise § 200.318 to strengthen accountability for time-and-materials type contracts and to streamline other procurement requirements. The proposed revisions add requirements that material costs under time-and-materials contracts must be supported by documentation and priced consistently with market rates. These additions are intended to ensure recipients apply effective cost controls and maintain transparency in contract pricing. OMB also proposes to revise this section by deleting a prior list of examples of labor and employment practices that do not reflect common procurement approaches or otherwise do not align with administration policy or Federal agency priorities. The proposed text continues to recognize that recipients and subrecipients may use project labor agreements or other types of pre-hire collective bargaining

agreements, but only if the use of such agreements will advance the interest of the Federal Government associated with the applicable Federal financial assistance program, including consideration of practicability and cost effectiveness. OMB also proposes language to clarify that part 200 does not prohibit recipients or subrecipients from communicating a requirement that individuals be authorized to work in the United States under applicable law. OMB also proposes to clarify that recipients and subrecipients are also responsible for ensuring consistency with applicable law, and that employment practices should be consistent with the foundational principles of recognizing merit and the ability of employees to fulfill the requirements of the contract. Collectively, these proposed revisions streamline the requirements by removing extraneous, unnecessary, or inappropriate examples, while reinforcing lawful flexibility and cost accountability in procurement practices.

Section 200.320—Procurement Methods

OMB proposes to revise § 200.320 to include language regarding how cost-reimbursement contracts may be used. The proposed language strongly discourages recipients from using cost reimbursement contracts. Under the proposed text, when using cost-reimbursement contracts, the recipient must notify the awarding Federal agency of its use of this mechanism and maintain a written justification in its records. OMB also proposes flexibility for Federal agencies, at their discretion, to require prior approval of such contracts in the terms and conditions of the award. These changes are intended to reflect that cost-reimbursement contracts are inherently higher risk, as they reduce incentives for contractors to control costs, require more intensive oversight, and present greater risk of improper or excessive payments of Federal funds. By discouraging their use while preserving agency authority to require prior approval, the revision strikes a balance between limiting risk and allowing flexibility in circumstances where no other contract type is feasible.

Section 200.321—Contracting With Small Businesses

OMB proposes to streamline § 200.321 to simplify direct recipients and subrecipients to ensure that small businesses, including subcategories enumerated in Federal statute, are considered for contracting opportunities. These proposed changes are intended to streamline the policy,

⁹⁹ Compare 48 CFR, Subpart 22.18. See also FAR Case 2007–013, Employment Eligibility Verification, 73 FR 67651 (Nov. 14, 2008).

¹⁰⁰ 31 U.S.C. 3351 *et seq.*

reduce administrative burden, and ensure that contracting preferences remain consistent with law and other principles discussed in this document, including merit-based opportunity.

Section 200.322—Domestic Preferences for Procurements

OMB proposes to revise § 200.322 to clarify the policy related to domestic preferences for procurements under Federal awards. The text of § 200.322(c) (existing version) refers to mandatory requirements at 2 CFR part 184 for infrastructure awards. The text of § 200.322(a) and (b) (existing version) provides an aspirational standard that applies more broadly to all awards. OMB proposes to delete the existing aspirational standard at paragraphs (a) and (b) and replace it with a new paragraph (a) (proposed version) directing agencies, to the greatest extent practicable and consistent with law, to include terms and conditions in Federal financial assistance awards to maximize the use of goods, products, and materials produced in the United States. At paragraph (b) (proposed version), in the case of infrastructure projects, OMB proposes to preserve the existing requirement at paragraph (c) for agencies to implement the mandatory Buy America preferences set forth in 2 CFR part 184.

Based on the Build America, Buy America Act (BABA), which was included in the Infrastructure Investment and Jobs Act (IIJA), OMB has broad statutory authority to require inclusion of mandatory Buy America requirements for all Federal infrastructure assistance programs. OMB implemented these mandatory standards for infrastructure at 2 CFR part 184 and § 200.322(c) (existing version). BABA is the most relevant government-wide source of authority to impose mandatory grant conditions on non-Federal entities specifically related to Buy America requirements under financial assistance awards. There are also various agency-specific statutes that do the same.

The authority of Federal agencies to impose domestic purchasing requirements for non-infrastructure awards will generally depend on appropriations and authorizing statutes for individual award programs. OMB, through the Administrator of the Office of Federal Procurement Policy (OFPP), also has authority under 41 U.S.C. 1125 to “prescribe Government-wide policies, regulations, procedures, and forms that the Administrator considers appropriate and that executive agencies shall follow in providing for the procurement, to the extent required under those programs,

of property or services referred to in . . . [41 U.S.C.] 1121(c)(1) . . . by recipients of Federal grants or assistance under the programs.” That authority must be exercised with “due regard to applicable laws and the program activities of the executive agencies administering Federal programs of grants or assistance.” *Id.*

Consistent with the above authorities, proposed paragraph (a) would only be required “to the greatest extent practicable and consistent with law.” Thus, agencies would be responsible for evaluating both the practicability and legal availability of imposing such conditions. OMB is not directly imposing this requirement on award recipients, but requiring agencies to evaluate its practicability and the legal authorities that apply to non-infrastructure financial assistance programs. The agency discretion to evaluate “practicability” leaves considerable flexibility for implementation. In addition to evaluating practicability, agencies would need to identify statutory authority prior to imposing such conditions. For example, some authorizing statutes may broadly authorize an agency to impose any conditions that the agency head finds warranted, while others may narrowly define the types of conditions that may be imposed. Generally, to impose substantive conditions on Federal grants, an agency must identify statutory authority providing the agency with discretion to impose such conditions. As such, before imposing Buy America award conditions on non-infrastructure awards, agencies must evaluate their appropriations and authorizing statutes on a case-by-case basis to determine whether they have the legal discretion to impose such conditions. The proposed language would provide that, if agencies identify the necessary legal authority, and determine that imposing conditions would be practicable under the relevant program, they must include grant terms and conditions to maximize domestic content. Unlike § 200.322(a)–(b) (existing version), if a requirement is included in the terms and conditions of an award, it could be made a legal requirement subject to audit instead of merely an aspirational standard. If such a requirement is included for a non-infrastructure award, the agency would need to define the applicable Buy America standard it is imposing, which could be based on existing standards required by law in other contexts, such as the BABA standard in part 184 or others.

OMB recognizes that the proposed policy at paragraph (a) (proposed

version) does not exist under the existing version of 2 CFR. OMB proposes to find that establishing this policy is legally available based on the discretion left to agencies for implementation. Under the current 2 CFR regulatory text, agencies only impose mandatory Buy America requirements for infrastructure grants. If statutory authority is determined to be available, and the agency determines that imposing conditions would be practicable for the relevant program, this newly proposed provision could require agencies to apply domestic manufacturing requirements for a broader range of grant activities.

Section 200.323—Procurement of Recovered Materials

OMB proposes to remove § 200.323(b) in its entirety. The Executive order that provided the foundation for this policy was rescinded. Moreover, the policy was only an encouraged practice and not a requirement.

Section 200.324—Contract and Cost Price

OMB proposes to streamline § 200.324, including removing an example related to considering potential workforce impacts if a procurement transaction will displace public sector employees. The proposed changes are not intended to prohibit the consideration of such impacts, only to remove the example. This streamlined text removes a potential burden on recipients that is not statutorily required.

Section 200.329—Monitoring and Reporting Program Performance

OMB proposes to revise § 200.329 to require recipients to confirm in their performance reports that all subawards issued during a reporting period have been reported to *SAM.gov*. This proposed addition is intended to strengthen transparency and ensure subaward data is current and accurate. OMB also proposes a new paragraph (h) to emphasize the importance of subrecipient reporting. Specially, OMB emphasizes that Federal agencies are responsible for providing oversight regarding subrecipient reporting, such as reviewing and monitoring subrecipient reporting in *SAM.gov*, and taking corrective actions when recipients are not in compliance.

In addition, in existing paragraph (g) (proposed paragraph (i)), OMB proposes to require Federal agencies to justify and maintain documentation of any decision to waive any performance report. This proposed revision balances accountability with flexibility,

reinforcing oversight of performances, including subrecipient reporting, while allowing agencies to reduce unnecessary reporting burdens where appropriate.

Lastly, OMB proposes a new paragraph (e) regarding performance reports for scientific research. For awards categorized by a Federal agency in accordance with § 200.202(f), the recipient must identify and include the categorization provided in the terms and conditions of the award in the performance report.

Section 200.331—Subrecipient and Contractor Determinations

OMB proposes to revise § 200.331 by adding a new paragraph (c). This paragraph addresses transfers of Federal funds to related entities. This proposed addition makes clarifies that pass-through entities cannot treat such transfers as internal allocations exempt from a determination required by this section. Instead, consistent with the requirements of this section, related entity transactions must be reviewed and classified as either a subaward or contract. This would ensure accountability and transparency in circumstances involving related parties and prevent circumvention of Federal reporting requirements.

Section 200.332—Requirements for Pass-Through Entities

OMB proposes to revise § 200.332 to add three new paragraphs to this section. In proposed paragraph (g), OMB again highlights the requirement that pass-through entities must report subawards to *SAM.gov* in accordance with the requirements of 2 CFR part 170. In proposed paragraph (h), OMB reiterates the requirement in § 200.331 that pass-through entities must make subrecipient and contractor determinations for all downstream entities, including affiliates, subsidiaries, and related organizations. This proposed change would clarify that internal organization affiliations do not exempt pass-through entities from classifying subawards and contracts. Lastly, in proposed paragraph (i), OMB specifies that pass-through entities must ensure that subrecipients do not take actions that could significantly damage the reputation of the pass-through entity, awarding Federal agency, or the Federal Government. Where such actions occur, the proposed text indicates that the pass-through entity must consult with the Federal agency to determine whether termination of the award is warranted. This proposed addition would ensure accountability for reputational risk that may

undermine public trust in Federal award programs.

Section 200.333—Fixed Amount Subawards

OMB proposes to revise § 200.333 to remove the policy allowing recipients to issue fixed amount subawards. Fixed amount subawards have been implemented inconsistently across programs, agencies, and recipients, and existing standards for this type of award do not provide for transparency, accountability, and oversight as compared to other award types. OMB proposes to eliminate fixed amount subawards consistent with the changes made to § 200.201.

Section 200.336—Methods for Collection, Transmission, and Storage of Information

OMB proposes to revise § 200.336 by adding a statement encouraging recipients and subrecipients to use domestic storage capabilities for electronic records. This addition is intended to strengthen data security, reduce exposure to potential foreign data vulnerabilities, and support greater assurance that Federal award records remain accessible and protected within U.S. jurisdiction. While framed as a strong encouragement rather than a mandate, this change promotes best practices for safeguarding sensitive Federal award information.

Section 200.338—Restrictions on Public Access to Records

OMB proposes a clarification to § 200.338. Specifically, confidential business information is included as a type of information that Federal agencies may not place restrictions on the recipient or subrecipient from limiting public access to such information.

Section 200.339—Remedies for Noncompliance

OMB proposes to add a new paragraph to § 200.339 to clarify that, if applicable and consistent with law, a Federal agency may, at its discretion, cooperate with individuals or organizations in pursuing their own private cause of action or remedies. This addition would not impose an affirmative duty on agencies to assist in private litigation. The proposed revision is only intended to affirm that agencies may, at their discretion, cooperate with persons in pursuit of private remedies in circumstances consistent with law.

For the avoidance of doubt, the decision of whether an agency will cooperate with individuals or organizations in their pursuit of private

causes of action and civil remedies, and decisions regarding the extent of any cooperation, will be made solely in the discretion of that agency. The proposed subsection (b) is not intended to, and would not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person. Nothing in the proposed subsection (b) should be construed to impair or otherwise affect the authority granted by law to an executive department or agency, or the head thereof. A Federal agency should only cooperate with a private cause of action if it determines that such cooperation is in the interest of the United States

Section 200.340—Termination and Suspension

1.a. Summary of proposed revisions regarding termination. OMB proposes to revise § 200.340(a) to provide additional clarity regarding reasons available to Federal agencies for discretionary terminations of Federal awards, and also to add new provisions regarding temporary suspension of Federal awards. These proposals are similar to parallel procedures for procurement contracts under the FAR. The proposed revisions regarding discretionary termination are also consistent with section 5(a) of Executive Order 14332 of Aug. 7, 2025, “Improving Oversight of Federal Grantmaking,” which instructs OMB to revise 2 CFR to further clarify and require all discretionary grants to permit termination for discretionary reasons, “including when the award no longer advances [Federal] agency priorities or the national interest, but subject to appropriate exceptions,” including certain exceptions set forth in the Executive Order.

In developing the proposed rule, OMB considered alternatives to the discretionary termination provision, such as stricter up-front screening during the award selection process or enhanced monitoring. While these are also important tools to ensure oversight of the Federal grantmaking process, OMB found that they do not remove the need for mid-award termination mechanism. The discretionary termination provision is similar to the already existing authority at § 200.340(a)(4) in the 2024 regulatory text and § 200.340(a)(2) in the 2020 regulatory text.¹⁰¹

¹⁰¹ The operable language regarding “program goals or agency priorities” was first established by OMB in 2020 at § 200.340(a)(2) (2020 version).

By preserving the policy flexibility provided to agencies from Congress for discretionary award programs through clear upfront notice to recipients, agencies can best ensure the responsible management and safeguarding of taxpayer resources throughout the award lifecycle. Federal agencies—and ultimately, the American taxpayer—should not remain obligated to continue funding discretionary awards that do not best or most effectively serve the authorized public purposes of the particular program.

The benefits of this proposal include increased flexibility for agencies to respond to changing circumstances, priorities, or knowledge. By aligning grant management with well-established contract management practices, the Federal Government can ensure greater and more responsible oversight regarding how taxpayer resources are used and managed.

Like the 2020 version, and as remained permitted under the 2024 version, the proposed version of § 200.340 expressly contemplates that sometimes Federal agency program goals or priorities may change after an award is initially made, or that the Federal agency may reassess whether a particular recipient remains the best available choice to achieve the public purposes authorized by law on behalf of the American taxpayer. Like the earlier versions, the proposed text also recognizes that sometimes program goals or Federal agency priorities may change in response to new direction from politically accountable leadership. As is already the case, the proposed version of 200.340 contemplates that an agency may exercise those types of discretion as a responsible steward of public resources.

Accordingly, OMB proposes to add the updated discretionary termination provision, which further clarifies the government-wide authority already available to agencies under § 200.340(a)(4) (existing 2024 version). OMB proposes the new discretionary termination provision to provide that the Federal agency or pass-through entity, to the extent permitted by law, may terminate a Federal award in part or its entirety if the Federal agency or pass-through entity determines that a termination is in the interest of the Federal agency or pass-through entity. The proposed regulation specifies that this includes if a Federal award no longer effectuates program goals, Federal agency priorities, or the national interest as they exist at the time of the termination.

OMB proposes to clarify that the relevant “agency priorities” would be

those of the *Federal* agency that is politically accountable at the national level for implementing the Federal program under which the award was made. In some situations, pass-through entities may interpret the term “agency priorities” under the existing provision to include State or local government priorities, which may be inconsistent or even conflict with Federal priorities or the national interest. To clarify intent, OMB proposes to add the word “Federal” before “agency priorities.” In the final rule, OMB is also considering others revisions to clarify this point. The interest of a pass-through entity in implementing a Federal award should remain consistent with the interest of the Federal agency responsible for implementing the Federal program on the national level. If this is not adequately clear or implied under the proposed text, OMB may consider revising the proposed standard in the final rule from “in the interest of the Federal agency or pass-through entity” to only include “in the interest of the Federal agency.” In any case, terminations by pass-through entities should remain consistent with the interest of the Federal agency, which is responsible for setting program goals and priorities for the Federal program. A termination by a pass-through entity should not conflict with the Federal interest. In some cases, it may be appropriate for a pass-through entity to coordinate with a Federal agency before making such a discretionary termination under this provision.

Like the 2020 provision, the proposal recognizes that Federal agency priorities may change after an award is initially made. This proposal creates greater alignment between Federal financial assistance and the long-standing termination for convenience provision applicable to Federal procurement contracts. The goals of this proposal include ensuring that Federal funds are not wasted, projects remain aligned with Federal agency priorities, and recipients remain accountable for delivering projects consistent with public purposes authorized by law.

OMB does not intend the proposed list of reasons for discretionary terminations to necessarily be exhaustive. If the rule is finalized, Federal agencies must include all of the listed reasons, but may also include supplemental reasons, as appropriate, based on the authority at § 200.340(a)(5). For example, agencies may also specify that discretionary terminations may occur in circumstances in which a Federal award is no longer in the “public interest.” The “public interest” and the “national interest” should

generally have similar and broadly overlapping meanings, but agencies may include this or other additional reasons for discretionary terminations if useful for clarity or avoidance of doubt.

Other clarifying edits are proposed in paragraph (a) regarding the other reasons for termination, including for noncompliance, by mutual agreement, upon notification by the recipient or subrecipient, and pursuant to additional terms and conditions included in the Federal award. For readability, sub-headings are added for all authorized reasons for termination. In the noncompliance paragraph, OMB proposes to mention that failure of the recipient to report subawards on *SAM.gov* pursuant to the award term required by part 170 can constitute grounds for termination for noncompliance. Under the final paragraph for “additional terms and conditions,” OMB also proposes to recognize that Federal agencies may only include terms and conditions that are permitted by law. For example, as with termination for discretionary reasons, certain non-discretionary programs may not permit expanded termination provisions based on agency discretion.

Paragraph (b)(1) of the proposed text provides that, to the extent authorized by law, and except as provided in paragraph (b)(2), the Federal agency and pass-through entity must ensure that all Federal awards allow termination for the reasons described in paragraphs (a)(1) through (4) of the section. The proposed paragraph (b)(2) explains exceptions to this requirement. Specifically, the requirement to include the discretionary termination provision does not apply to any Federal award in which inclusion of such a discretionary termination provision would conflict with a Federal statute. Consistent with the distinction recognized in Executive Order 14332 between discretionary awards and statutory entitlements, the proposed text explains that the discretionary termination “provision is generally applicable to discretionary awards, but not to Federal awards made under programs where legislation establishes an entitlement to the funds on the part of the recipient, such as block grants, those awarded based on a statutory formula, or disaster recovery grants.” Statutory entitlements are the only categorical exception recognized in the proposed rule, but certain other statutory requirements imposed on Federal agencies related to obligation or use of Federal funds may also impose limits on the application of this provision in some circumstances. Consistent with Executive Order 14332,

the discretionary termination provision also “does not apply to agreements entered into in furtherance of international trade agreements or those awarded by the Department of Commerce under title XCIX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), the CHIPS Act of 2022 (Pub. L. 117–167), or division F of the Infrastructure Investment and Jobs Act (Pub. L. 117–58).”

The proposed paragraph (b)(2) also explains that if questions arise regarding applicability of the discretionary termination provision to specific programs or awards, Federal agencies are strongly encouraged to consult with OMB. Federal agencies must seek approval from OMB prior to allowing any class exceptions not otherwise required by statute or recognized in paragraph (b)(2).

Thus, with limited exceptions, the proposed text requires inclusion of four standard reasons for termination, including the discretionary termination provision, in all Federal awards, rather than a “pick and choose” approach among the available options. The existing provision has sometimes led to inconsistent termination provisions across the Federal Government and confusion regarding which termination provisions actually are or should be included in specific Federal awards. The proposed revisions emphasize, at paragraph (b)(1), that the Federal agency is always required to include the four standard termination provisions unless an exception applies.

In addition to the four standard termination provisions, OMB also proposes adding a fifth potential reason for termination, allowing a Federal agency or pass-through to define additional grounds for termination in the terms and conditions of the Federal award, providing that doing so is consistent with authorizing law. OMB proposes certain clarifying edits and to add subsection headers for clarity.

1.b. Summary of proposed revisions regarding temporary suspension. OMB proposes to add a new paragraph (d) regarding temporary suspension of awards. Similar to a parallel provision in the FAR applicable to procurement contracts, this paragraph would provide Federal agencies and pass-through entities with authority to provide a written order to stop work. The proposed revisions address the contents of such orders and how they must be handled by the Federal agency or pass-through entity. These revisions are intended to ensure that Federal agencies and pass-through entities have all the

necessary resources available to provide effective monitoring and oversight of Federal awards. Temporary suspensions of activities are sometimes necessary to protect the Federal interest, but may also potentially create administrative or financial challenges for recipients. The proposed policy requires agencies to account for the potential budgetary and scheduling impacts and seeks to maintain fairness and transparency in managing such disruptions. As a result, the proposed revisions would promote communication and accountability between agencies and recipients in the event of temporary suspensions. They would also support more effective program oversight and minimize the risk of extended downtime or misaligned expectations following a work stoppage.

Proposed paragraph (b)(4) addresses the circumstances in which temporary suspensions provisions must be included in the terms and conditions of a Federal award. Similar to the discretionary termination provision, the Federal agency or pass-through entity must clearly and unambiguously include the suspension provision in the terms and conditions of the Federal award unless doing so would conflict with a Federal statute. The proposed text explains that the suspension provision is generally applicable to discretionary awards, but not to Federal awards made under programs where legislation establishes an entitlement to the funds on the part of the recipient, such as block grants, those awarded based on a statutory formula, or disaster recovery grants. If questions arise regarding applicability of the suspension provision to specific Federal programs or types of Federal awards, Federal agencies are also strongly encouraged to consult with OMB.

2. Need for policy flexibility and ongoing stewardship of Federal funds. Consistent with the first objective of this rulemaking, the proposed discretionary termination and suspension provisions provide essential tools for ensuring ongoing stewardship and responsible management and oversight by Federal agencies of taxpayer resources throughout the award lifecycle. The discretionary termination provision preserves policy flexibility, consistent with law, for an agency to reconsider whether a particular Federal award effectively serves the Federal Government’s interest in carrying out public purposes or objectives authorized by law. Agency program goals and priorities related to such public purposes may evolve over time, the agency’s best judgment regarding the national interest may also change and

evolve, and facts and circumstances may change in ways that were not anticipated by the Federal agency at the time the award was initially made. Provided that the Federal agency provides clear notice of the discretionary termination provision to recipients at the time the award is made, which will allow recipients to appropriately calibrate and manage reliance interests, it is appropriate for Federal agencies, and the Executive Branch more broadly, to retain the policy flexibility to terminate awards that are no longer in the Federal Government’s interest. Federal agencies should not be forced to continue funding projects that do not best serve program goals, Federal agency priorities, or the public interest more broadly. The suspension provides similar flexibility for temporary stoppages.

3. Similar existing authority applicable to Federal contracts. In the Federal procurement context, executive agencies have long included termination for convenience clauses in contracts. The Federal Acquisition Regulation (FAR) permits an agency to terminate a contract “for convenience” whenever it determines that termination is in the government’s interest. See, for example, 48 CFR 49.502 and 52.249–2. This longstanding tool allows Federal agencies to terminate contractual obligations that have become unnecessary or contrary to new policy direction, while allowing appropriate cost recovery for work already performed. Federal courts have upheld these terminations as a legitimate means of preserving flexibility to protect taxpayer resources and respond to changing circumstances.

By applying a parallel principle to discretionary assistance programs, such as discretionary grants and cooperative agreements, the proposed rule further harmonizes Federal grant management with longstanding procurement practices, while also tailoring the provision for use under OMB’s requirements in 2 CFR. A 2020 revision of the Uniform Guidance already introduced a comparable basis for termination “if an award no longer effectuates program goals or agency priorities.” This proposed revision will ensure that Federal agencies have broad authority for termination for discretionary reasons that is similar to the authority under the FAR in purpose and general effect, while also accounting for the unique context of grants.

The proposed provision is necessary to safeguard the ability of executive agencies to supervise executive branch spending. The Federal Government’s

responsibility for stewardship of taxpayer funds does not diminish merely because the award is a grant and not a contract. If a project funded by a grant is failing to meet underlying public purposes, program objectives, Federal agency priorities, or the national interest, the government should have a comparable ability to discontinue funding as it would for a similarly misaligned contract. The proposed rule generalizes this best practice across the Federal Government, ensuring consistency and transparency.

Similarly, executive agencies have also long included clauses in contracts allowing for temporary work stoppages or suspensions. The FAR permits an agency to, at any time, by written order to the contractor, require the contractor to stop all, or any part, of the work called for by the contract for a period of 90 days after the order is delivered to the contractor, and for any further period to which the parties may agree. See, for example, 48 CFR 42.1303 and 52.242–15. This longstanding tool allows Federal agencies to temporarily suspend contractual obligations to ensure effective oversight and accountability and for other purposes.

4. Executive authority applicable to discretionary award programs. For discretionary award programs, the proposed discretionary termination and suspension provisions operate within the framework of Congressional authorization and appropriation. Congress provides agencies with discretionary authority to make awards for certain program purposes, leaving agencies with broad discretion as to which projects to fund. The discretionary termination and suspension provisions are merely an exercise of that discretionary authority—allowing agencies, consistent with law, to retain discretion regarding how Federal funds are expended in service of the program’s objectives. The proposed provisions do not contravene statutory requirements or otherwise assert any authority for discretionary programs that is not already provided to agencies in the statutes authorizing those programs.

To recognize these limits, the text of the discretionary termination provision recognizes that it may only be exercised “to the maximum extent authorized by law.” If a particular program statute expressly entitles a recipient to certain funding or expressly prohibits termination in certain circumstances, those statutory limits would control. These statutory limits are also recognized in the proposed exception paragraph, which corresponds with language in section 5(a) of Executive

Order 14332. Similar limitations are provided for the proposed suspension provision.

Consistent with the termination provisions in 2020 and 2024, the proposed discretionary termination provision continues to recognize that Federal agencies cannot terminate grants when doing so would be inconsistent with a Federal statute. The legality of any particular grant termination will necessarily turn on the specific Federal statutes governing the agency program at issue, and various other award-specific, agency-specific, and other considerations that can only be decided by a court at a more granular level. The OMB discretionary termination provision merely creates the legal framework for terminations when otherwise consistent with law. A framework that only permits terminations to the extent consistent with law does not conflict with any statute. To the extent a grant recipient believes that a particular termination is unlawful, it could raise that concern in the U.S. Court of Federal Claims.

For discretionary award programs, to which the proposed discretionary termination and suspension provisions will apply, Congress has generally provided Federal agencies with broad discretion to determine how to select recipients and administer awards to serve public purposes recognized in law. Certain legislative boundaries frequently apply to agency authority under those programs, such as statutory requirements related to eligible recipients, projects, or activities. The authority to make discretionary awards within those boundaries, however, necessarily includes the ability to revisit earlier decisions and re-exercise agency judgment in light of changing circumstances, at least provided that: (i) the particular program statute does not expressly limit or control the agency’s discretion to reconsider its earlier award determinations; and (ii) the recipient receives clear and unambiguous notice of the discretionary termination provision in the award instrument.

The statutory authority provided by Congress allowing executive agencies to administer discretionary award programs—including deciding which entities receive awards and the amount of those awards—necessarily includes the implied or inherent authority for agencies to reconsider earlier decisions made about awards. Provided that clear and timely notice of the discretionary termination and suspension provisions is included by the Federal agency in the award instrument—either at the time of award or through an amendment made consistent with law—and that a program

statute does not limit or control the process for terminations or reconsideration of award decisions, these provisions can be applied by agencies in a manner consistent with their authority under law. For programs in which an agency has lawful discretion to make an award, the discretionary termination and suspension provisions provide clear notice to recipients that the agency retains the discretion to withdraw, terminate, or temporarily suspend that award consistent with law.

The proposed discretionary termination and suspension provisions merely ensure that the government retains appropriate authority to course correct, consistent with the discretion provided by law, if circumstances warrant. These provisions are an important safeguard, providing policy flexibility if an agency determines that a project is contrary to the Federal interest, or that a work stoppage is necessary for reasons including evaluating whether a project is aligned with the Federal interest.

Similar analysis regarding executive authority for discretionary award programs applies to both the discretionary termination and temporary suspension provisions. To limit repetition in the preamble for this proposed rule, OMB does not recite the basis for that authority separately, but proposes to find that the same general principles apply.

OMB and the participating agencies rely on this discretionary authority, where it applies, for the proposed discretionary termination and suspension provisions, in addition to OMB’s authorities for government-wide grants management. The proposed discretionary termination and suspension provisions are a legitimate and reasonable exercise of the authority for discretionary grant programs provided to executive agencies.

5. Spending clause framework. The Spending Clause framework discussed above regarding proposed revision to § 200.300 does not directly apply to the proposed revisions to § 200.340 regarding termination and suspension. The discretionary termination and suspension provisions are merely administrative features of the OMB requirements for grants administration that, where applicable, preserve discretionary authority provided to agencies by Congress throughout the award lifecycle. The discretionary termination and suspension provisions are not substantive conditions imposed on particular awards in exchange for Federal funds. But even if the Spending Clause framework were found to apply

to the proposed revisions to § 200.340, it does not present an obstacle to including this term. See *Dole*, 483 U.S., at 207–11.

First, as discussed above, the determination of Congress to provide agencies with discretionary authority to administer award programs promotes the general welfare. For example, this discretionary authority ensures that programs are administered in a way that protects taxpayer resources, is responsive to the needs Americans within legislative bounds, and provides ongoing stewardship and oversight of Federal funds throughout the award lifecycle. The general welfare is served by allowing the Federal Government to discontinue funding for projects that prove ineffective or harmful, and to appropriately allocate resources to projects that would better serve the public good. The general welfare is also served by allowing temporary suspensions as appropriate in the discretion of the awarding agency.

Second, the proposed discretionary termination and suspension provisions are designed to provide clear, unambiguous, and timely notice of the award condition to applicants and recipients before the Federal award is made. This will provide up-front transparency regarding the process for terminating or suspending awards for discretionary reasons. Applicants and recipients will enter into awards with full knowledge of the risks and conditions associated with accepting the Federal award. This clear notice will permit them to make informed decisions regarding acceptance of Federal awards and appropriately mitigate reliance concerns. By agreeing to the award conditions, recipients accept the risk of an early termination or temporary suspension, which satisfies the clear notice standard under relevant case law. If a recipient is unaware of the discretionary termination or suspension provisions included in its award, the only explanation will be its failure to read the government-wide regulations, the award instrument, or both.

Third, the exercise of agency discretion in general for discretionary awards, and the discretionary termination provision in particular, are inherently related to the “federal interest” in particular assistance programs for discretionary awards. The provision seeks to ensure that Federal agencies have and retain the ability to exercise judgment in determining how discretionary funds are best used to serve the Federal Government’s interest in the public purposes authorized by law for particular programs. It is a procedural term providing the agency a

right to terminate an award that an agency determines is no longer in the Federal interest as it relates to underlying program objectives. This right is rooted in the established legal authority of OMB and agencies to establish conditions related to grants administration and the efficient use of Federal funds for authorized purposes. As such, it is also inherently related to the effective administration of the Federal interest in particular discretionary award programs. Building on the existing discretionary termination provision, the revised version would be an important tool to ensure that Federal awards continue to be used in furtherance of programs goals, Federal agency priorities, and the national interest as it relates to the particular program. The condition helps to reinforce the relatedness of government spending to authorized public purposes throughout the award lifecycle. If an awarded project, in the agency’s judgment, ceases to be an effective use of government resources in achieving those purposes, the agency may discontinue funding. Similar analysis applies to the suspension provision, which further ensures that the Federal agency retains effective oversight tools throughout the award lifecycle.

Fourth, the discretionary termination and suspension provisions are merely extensions of a Federal agency’s general authority to exercise discretion over Federal award programs consistent with law. The discretionary termination and suspension provisions preserve the right for agencies to retain and exercise ongoing discretion over how Federal funds are used to serve statutory purposes. This aligns with discretion long exercised by Federal agencies in the context of Federal contracting. Like the parallel FAR provisions, the discretionary termination and suspension provisions are just a procedural or mechanical features of the regulation that do not directly signal that any specific termination or suspension will occur or otherwise induce unconstitutional conduct.

Finally, the proposed discretionary termination and suspension provisions are not unduly coercive. Again, these are just procedural or mechanical features of the regulation corresponding to similar FAR provisions. The proposal extends the discretionary authority provided to agencies by Congress further into the award lifecycle. An applicant or prospective recipient remains free to opt out of particular Federal award or program if it finds the provisions unacceptable. Such decision would not affect other awards to which

the discretionary termination or suspension provisions do not apply, and for which the agency does not have comparable discretionary authority, such as entitlement programs.

6. *Termination costs.* OMB has carefully considered reliance interests that may be implicated by the proposed discretionary termination provision. Three features of the proposed rule are designed to address these concerns: (1) the clear and unambiguous notice of discretionary termination provision discussed above; (2) compensation for work performed consistent with existing termination procedures and cost principles; and (3) procedures related to notices of a discretionary termination, an opportunity for recipients to explain terminations costs, and case-by-case discretion for agencies to consider additional terminations costs and weigh them against competing policy concerns.

The proposal generally preserves existing post-termination procedures and cost principles, but includes additional clarifying text applicable to discretionary terminations. Generally, when a grant is terminated, grant recipients are entitled to reimbursement for all allowable costs incurred up to the effective date of termination. This ensures that a recipient will not be left uncompensated for legitimate expenses made in reliance on the award prior to the effective date of the termination.

The proposed rule also clarifies notice requirements for terminations and provides agencies with case-by-case discretion to consider costs associated with a terminated award and weigh them appropriately against competing policy concerns. While not identical, this structure has certain similarities to the treatment of termination costs in Federal contracts, where contractors terminated for convenience can recover costs for completed work and reasonable termination expenses. Compare 48 CFR 52.249–2. By ensuring that recipients can submit information related to termination costs, the rule provides appropriate discretion to agencies to consider and respond to these concerns upon award termination. The proposed provisions balance the need for Federal flexibility with fairness to recipients. Additional discussion regarding termination costs is provided in this document under §§ 200.341 and 200.343.

Section 200.341—Notification of Termination Requirement

At § 200.341(b), OMB proposes to provide additional information regarding notifications of terminations for noncompliance.

At § 200.341(c), OMB proposes to add a paragraph regarding notifications of discretionary terminations. While the proposed discretionary termination provision reserves broad authority for terminations that are in the interest of the Federal Government (or pass-through entity, as applicable), that authority is not unlimited. As with all exercise of agency discretion, Federal agencies (or pass-through entity, as applicable) must provide a reason for individual termination decisions, which may serve as part of the administrative record upon judicial review, if applicable. To ensure such reasons will be provided, at § 200.341(c), OMB proposes to expressly require termination notices issued under the discretionary termination provision to include a brief summary of the reason or reasons why an agency decided to terminate an award or class of awards. That summary would not be required to provide a detailed or exhaustive analysis, but only to ensure that the recipient or subrecipient is provided information regarding the reason for termination. The summary should do more than merely citing the discretionary termination provision; it should provide a reason why the termination was found to be interest of the Federal agency or pass-through entity. Ensuring the adequacy of the notification will help to ensure that recipients understand why termination decisions have been made and reduce risk to the Federal Government.

Thus, the decision to terminate a Federal award for discretionary reasons under § 200.340(a)(2) (proposed version) would still require a basic rationale regarding why the Federal award does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination. As in the context of parallel terminations for convenience in the context of Federal procurement, provided that recipient was given upfront notice of the discretionary termination provision, the requirement to provide a reason for award termination is not an exceptionally high bar. By providing a reasoned explanation for the exercise of authority under the discretionary termination provision based on programmatic or policy reasons, as they exist at the time of the termination, agencies will remain accountable for review in the U.S. Court of Federal Claims, as appropriate and authorized by law, for their termination decisions.

The proposed revisions also specify that the notification must include instructions to the recipient or subrecipient to stop work, make no

additional financial obligations, and, to the extent authorized by law, terminate all subawards and contracts related to the terminated portion of the Federal award. The notification must also provide an opportunity for the recipient or subrecipient to submit a brief written statement regarding any termination costs it believes are relevant.

The proposed provision at § 200.341(d)(1), which is cross-referenced at the discretionary termination provision at § 200.340(a)(2), is intended to ensure that agencies provide a reasoned explanation, consistent with law, for specific termination decisions. For example, the Federal agency may explain why it determined that a particular award or class of awards would no longer effectuate program goals, Federal agency priorities, or the national interest. Or the Federal agency may prove an explanation of why an award or class of awards no longer best serves the authorized public purposes of the relevant program. Or an agency may explain, more generally, why it determined that an award or class of awards is no longer in the public interest, or will no longer best serve the public interest, as it relates to relevant program objectives in statute. Or an agency may explain why reallocating funds from an award or class of awards to other existing or new awards would better serve the public purpose of the program set forth in statute. Or any agency explanation may include some combination of the above reasons or other alternative reasons, consistent with law, for why it decided that terminating the award was in the government's interest.

The proposed provisions at § 200.341(c)—and additional proposed revisions at § 200.343(b)—will allow agencies to consider what terminations are warranted under the circumstances. This will include weighting circumstances that may warrant allowing the recipient to incur additional termination costs after the notice against competing policy concerns such as responsible stewardship of Federal funds and effective delivery of statutory objectives.

Section 200.342—Opportunities To Object, Hearings, and Appeals

OMB only proposes minor clarifying revisions to § 200.342. Like the existing version of § 200.342, the proposed version would continue to require Federal agencies to provide administrative hearing rights upon initiating a remedy for noncompliance. As under the existing version, such administrative hearing procedures

would not be required for other types of terminations unless expressly required by other law. Such administrative procedures—which are generally intended to allow a Federal agency to make findings of fact and conclusions of law related to a recipient's alleged misconduct or noncompliance under a Federal award—would have less purpose or need for terminations based on the discretionary reasons of the Federal agency. For example, recipients would not generally be in the best position to present facts or information related to the agency's priorities as they exist at the time the termination decision is made. Moreover, unlike compliance-based terminations, discretionary terminations would not require reporting in *SAM.gov* (§ 200.340(c) (proposed version)), which is an important reason for the administrative hearing rights provided to recipients for compliance-based terminations.

In the case of discretionary terminations or suspensions, Federal agencies would be required to follow other procedures described in the regulatory text, including procedures related to notice and allowable costs. An agency, in its discretion, may elect to engage with recipients through some form of administrative review process before or after a discretionary termination or suspension, but would not be required to except as necessary to provide notice, determine allowable costs, and implement other sections of the regulatory text. In some cases, engaging with recipients on discretionary terminations or suspensions may serve to reduce risk to the Federal Government or minimize impacts to Federal programs or Federal awards, while in other cases the agency may decide to limit engagement to only required procedures, such as providing appropriate notice and making a determination of allowable costs.

Section 200.343—Effects of Suspension and Termination

At § 200.343(a), OMB proposes to provide further clarity regarding the allowability of costs during suspension or after termination. For costs resulting from financial obligations properly incurred by the recipient or subrecipient before the effective date of suspension or termination, and not in anticipation of it, the existing regulation provides that allowability should be evaluated based on whether the costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect. OMB proposes to clarify that the recipient or

subrecipient must make all reasonable efforts to discontinue, cancel, mitigate, or otherwise reduce such financial obligations and provides documentation of those efforts to the Federal agency upon request. Sometimes it may not be possible to discontinue or cancel properly incurred financial obligations, but the regulatory text should better reflect the actual policy on such costs provided in the cost principles under subpart E. OMB also proposes to include an express cross-reference to the policy on termination and standard closeout costs provided in the cost principles at § 200.472(a). The existing version of OMB's policy in that section already provides that recipients and subrecipients must make all reasonable efforts to discontinue costs immediately after the effective termination date.

At § 200.343(c), to ensure that Federal agencies are appropriately empowered to consider costs resulting from discretionary terminations, OMB also proposes to add a provision expressly addressing such costs. The proposed paragraph would expand on the existing standard for which costs agencies may allow, in their discretion and consistent with law, following a termination notice. The proposed notice provision at § 200.341(c) also instructs agencies to provide the recipient of the terminated award with an opportunity to provide information related to terminations costs.

Subpart E—Cost Principles

Section 200.400—Policy Guide

OMB proposes to revise § 200.400 to clarify in paragraph (e) that the restrictions proposed in §§ 200.413 through 200.414 must be considered where wide variations exist in the treatment of costs. In addition, OMB proposes to remove the reference to fixed amount awards for reasons discussed elsewhere in this document.

Section 200.401—Application

OMB proposes to revise § 200.401 to remove references to fixed amount awards and Federal awards to hospitals.

OMB also proposes to revise the exemption under § 200.401(c), which allows operation under the Federal cost principles that apply to for-profit organizations at 48 CFR 31.2. OMB proposes to apply this exemption only to nonprofit organizations that receive 90 percent or more of their Federal funding in the form of contracts or operate a Federally Funded Research and Development Center (FFRDC). This proposed revision is further discussed in the section-by-section discussion covering appendix VIII.

Section 200.421—Advertising and Public Relations

OMB proposes to revise § 200.421 to specify that all advertising and public relations costs are unallowable with limited exceptions. The only exception for public relations costs are those required by statute. Advertising costs are allowable if required by statute or if they are for the procurement of goods and services for the Federal award; the disposal of certain scrap or surplus materials; or program outreach and other specific purposes necessary to meet the Federal award requirements. These proposed revisions would clarify that advertising and public relations costs that do not benefit the Federal award are not allowable.

Section 200.429—Commencement and Convocation Costs

OMB proposes to revise § 200.429 to remove the reference to IHEs. OMB proposes that the restriction should apply to all entities and not only IHEs. This proposed change is intended to ensure that the cost principles are streamlined and apply fairly to all entity types.

Section 200.432—Conferences

OMB proposes to expand § 200.432 to add a requirement that costs for attending conferences are allowable only if participation in the conference is expressly approved by the agency and included in the terms and conditions of the award. The revision would clarify that recipients are not authorized to attend conferences using Federal funds that do not serve to advance program outcomes.

Section 200.438—Entertainment and Prizes

OMB proposes to revise § 200.438 to remove reference to an outdated OMB memorandum.

Section 200.442—Fundraising and Investment Management Costs

OMB proposes to revise § 200.442 to propose that costs for fundraising and investment activities are only allowable with the prior written approval of the Federal agency.

Section 200.444—General Costs of Government

OMB proposes to revise § 200.444 to add a new paragraph (b) clarifying that general costs of government are those costs related to the general activities of the executive, legislative, or judicial branches of government, including general activities related to public safety, public information, citizenship, enrollment, or taxation that are not

related to a specific Federal award. OMB also proposes to strike Councils of Government (COGs) from the existing paragraph (b) (proposed paragraph (c)) to align this section with other proposed policies.

Section 200.450—Lobbying

OMB proposes to revise § 200.450 to consolidate references to OMB memoranda. OMB also proposes to add three new paragraphs under this section. Paragraph (c)(1)(iii) would expressly prohibit funding any voter registration campaigns, drives, or related activities under Federal awards.

Paragraph (c)(1)(iv) would prohibit using Federal funds to engage in issue advocacy or public messaging that promotes or opposes a particular social, political, or public policy position unrelated to the statutory objectives or performance requirements of the Federal award, including messaging designed to influence public attitudes on matters not necessary to accomplish the purpose of the Federal award. The authority for this change is similar to other provisions discussed above, which are focused on aligning use of Federal award funds with core authorized purposes only, not extraneous activities on divisive policy matters or issue advocacy.

Paragraph (c)(1)(v) would prohibit using Federal funds to influence the executive branch of any State government on matters unrelated to the objectives or performance requirements of the Federal award, including attempts to affect State agency policymaking, rulemaking, or administrative actions for purposes other than carrying out objectives of the Federal award.

Section 200.454—Memberships, Subscriptions, and Professional Activity Costs

OMB proposes to revise § 200.454 to clarify that the only allowable costs under this section are those necessary to fulfill the award requirements. OMB also proposes to add a requirement for prior approval of the Federal agency. Under the proposal, all other costs, including the costs of subscriptions or memberships in country clubs or organizations whose primary purpose is lobbying or issue advocacy, are unallowable.

Section 200.455—Organization Costs

OMB proposes to revise § 200.455 to clarify that data costs related to integrated data systems should align with the finalized Federal grants data standards as published on *Grants.gov*. This effort is in support of the GREAT Act, Public Law 116–103. Additional

information on these standards may be found at <https://www.grants.gov/data-standards>.

Section 200.461—Publication and Printing Costs

OMB proposes to revise § 200.461 related to publication and printing costs to make plain language revisions, including removing the word “promotion,” which is not the specific subject of this section. As § 200.421 provides the policy for “advertising and public relations” costs, OMB wants to ensure that the term “promotion” does not create an independent basis for allowing such costs under this section. To extent that advertising and public relations costs are not permitted under § 200.421, that section would govern. Furthermore, OMB is revising the section to make publication costs unallowable unless such costs are expressly required by statute or approved in advance by the Federal agency on a case-by-case basis. This change reflects OMB’s objective to strengthen stewardship of Federal funds and ensure that Federal financial assistance is directed toward achieving the programmatic objectives of the award. Publication costs are not inherently necessary to carry out the core programmatic objectives of most Federal awards. In many cases, such activities are discretionary, vary widely in scope and costs, and may serve institutional, professional, or reputational interests rather than the specific objectives of the Federal program. Absent statutory authority or award-specific requirement, allowing publication costs as a charge to Federal awards creates inconsistent charging practices and increases the risk that Federal funds are used for activities that are ancillary to program performance. By limiting allowability to circumstances in which publication is required by statute or explicitly incorporated into the award, this change would ensure that such costs are incurred only when they are directly tied to a statutory or programmatic requirement.

Section 200.467—Selling and Marketing Costs

OMB proposes to revise § 200.467 to clarify that the costs of selling and marketing products or services of the recipient or subrecipient are unallowable unless expressly included in the Federal award and necessary to meet the requirements of the Federal award.

Section 200.477—Abortion

OMB proposes adding § 200.477 to provide that costs associated with elective abortions are unallowable under Federal awards except as expressly authorized by Federal law. This addition is consistent with Executive Order 14182, Enforcing the Hyde Amendment (January 24, 2025), and reflects longstanding appropriations restrictions prohibiting the use of Federal funds for elective abortion except in limited circumstances. By incorporating this limitation as a selected item of cost, this rule promotes uniform application of existing statutory funding restrictions across Federal financial assistance programs while maintaining consistency with governing Federal law.

Subpart F—Audit Requirements

Section 200.503—Relation to Other Audit Requirements

OMB proposes to revise § 200.503 to clarify that a Federal agency, Inspector General, or GAO may only impose additional audits when authorized by statute. This proposed revision is intended to reduce audit burden by requiring a statutory foundation and prevent agencies from layering on additional audit requirements by regulation if not required by law. This revision balances proper oversight with limiting administrative burden, ensuring that core audit authority is preserved while constraining discretionary authority to expand audit requirements beyond the Single Audit Act requirements addressed in the part.

For avoidance of doubt, this provision would not preclude Federal agencies from conducting compliance reviews as necessary to implement other sections of this part and provide effective oversight of Federal awards, including to determine whether a recipient or subrecipient is in compliance with substantive programmatic or other legal requirements. For example, such compliance reviews may be necessary to determine whether a recipient of Federal financial assistance is in compliance with Federal civil rights laws or conscience protection laws.

Section 200.513—Responsibilities

OMB proposes to revise § 200.513(c)(4) to delete the word “annual” before compliance supplement. OMB is in the process of reevaluating the appropriate frequency for issuing the compliance supplement. As previously discussed in this document, OMB and the Office of Inspector General for HHS are currently analyzing the single audit process. OMB

plans to engage stakeholders ahead of any substantial changes.

Section 200.514—Standards and Scope of Audit

OMB proposes to delete some of the language in § 200.514(c)(1). Specifically, OMB proposes to delete the reference to guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control-Integrated Framework” issued by COSO. The reasons for this proposed change are discussed in § 200.303 of this document above.

Appendix I to Part 200—Full Text of Notice of Funding Opportunity

OMB proposes limited changes to appendix I. The proposed changes include changing “program description” to “funding opportunity description,” and other conforming changes to align with the proposed policies in this document. For example, references to paper application submissions have been removed. Agencies would be required to inform applicants to submit proposals via *Grants.gov* and provide instructions for doing so, unless a program specific exception is expressly authorized by Federal statute or approved by the Federal agency head (or designee). OMB also proposes to add references to Statements of Interests (SOIs) as discussed above in this preamble.

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

OMB proposes limited changes to appendix II. The proposed changes include removing the reference to rescinded Executive Orders in paragraph (C).

Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E of Part 200

OMB proposes to remove appendix VIII in its entirety. Consistent with the revisions to § 200.401, only those nonprofit organizations that receive 90 percent or more of their Federal funding in the form of contracts, or operate a Federally Funded Research and Development Center (FFRDC), will continue to operate under the Federal cost principles that apply to for-profit organizations.

The prior guidance created uncertainty by suggesting that agencies could expand the list of exemptions, which undermined the uniform application of cost principles across the Federal Government. The proposed revisions resolve these issues by

clarifying that the exemption applies only to the narrow category of nonprofits receiving 90 percent or more of their Federal funding in contracts. This threshold reflects that such organizations operate more like for-profit entities in terms of their funding streams and cost structures. For all other nonprofit organizations, the cost principles in subpart E will apply.

This proposed revision promotes consistency across agencies by ensuring more uniform treatment of nonprofit organizations. In addition, the revision improves oversight and enhances transparency by applying a clear, objective standard, and preventing agencies from unilaterally granting broad exemptions.

Appendix IX to Part 200—Hospital Cost Principles

OMB proposes a technical change to appendix IX to reflect the new location of the Hospital cost Principles in appendix IX to part 300.

VII. Discussion of Proposed Revisions to Subtitle B of 2 CFR by Federal Agencies

Through this proposed rulemaking, certain Federal grantmaking agencies that currently lack an existing chapter in 2 CFR subtitle B propose to add chapters, which are intended to streamline implementation and reduce variability across the Federal Government. Federal agencies that have existing chapters in 2 CFR subtitle B propose certain targeted and conforming changes to support OMB's broader rulemaking effort. All participating agencies adopt the common preamble above. A few agencies have provided supplemental preamble text that follows.

Health and Human Services (HHS)

OMB has included statutory and national policy requirements in section 200.300(a), including requirements related to "religious liberty, and those prohibiting discrimination." All Federal agencies must comply with RFRA (42 U.S.C. 2000bb, *et seq.*) and any applicable statutes prohibiting discrimination on the basis of religion or protecting the exercise of conscience. Federal agencies, pass-through entities, recipients, and subrecipients are required under the First Amendment, RFRA, and applicable statutes prohibiting discrimination based on religion or protecting the exercise of conscience, to consider and provide religious or conscience-based exemptions as required by law, and may not require application of particular provisions or requirements to specific

contexts, procedures, or services where such protections apply.

Federal agencies, pass-through entities, recipients, and subrecipients should be aware of their ongoing statutory obligations regarding religious liberty and conscience irrespective of the removal of language in 2 CFR 300.300(d) which provided for an assurance process to ensure the applicability of exemptions based on Federal protections for religious liberty and conscience. The proposed removal of such language should not be misconstrued as reduced Federal Government support for protections based on religion or conscience. The proposed revision to 2 CFR 200.300 is intended to clarify that conscience and religious liberty are protected under multiple statutes and the Federal Government will enforce such statutes as applicable. Further, § 200.300(a), as proposed, contains revised language similar to § 300.300(d), which clarifies that in managing and administering Federal awards, no person otherwise eligible will be excluded from participation in, unlawfully denied the benefits of, or otherwise subjected to unlawful discrimination in the administration of Federal programs, activities, projects, assistance, and services. Such non-discrimination language would encompass requirements, as applicable, not to discriminate on various bases, including race, color, national origin, disability, sex, religion or conscience.

Department of Homeland Security (DHS)

The Department of Homeland Security (DHS) has included in this proposed rule a potential change in delegation of authority in 2 CFR 3000.137. That section describes who within DHS may grant an exception to let an excluded person participate in a covered transaction. Currently, that section provides that the Secretary of Homeland Security has delegated the authority to grant such an exception to the Head of the Contracting Activity for each DHS component.

Because 2 CFR 3000.137 relates to non-procurement debarment and suspension, the Chief Financial Officer, rather than the Head of the Contracting Activity, is the more appropriate delegee. DHS intends to revise the regulatory accordingly. This proposal is consistent with DHS Instruction 146–01–001, Rev. 02, under which the DHS Chief Financial Officer grants waivers or limited exceptions to let an excluded party participate in covered non-procurement transactions including

prime and subcontracts, grants, and direct loans.

Environmental Protection Agency (EPA)

This regulatory action proposes to revise text at 2 CFR 1500.1(a)(2) to remove the term regulation.

This regulatory action also proposes to revise text at 2 CFR 1500.4, Exceptions, to correct the citation from 2 CFR 200.102(b) to 2 CFR 200.102(c) and replace non-Federal entities with recipients.

Finally, this regulatory action proposes to revise text at 2 CFR 1532.1125, 1532.1130(a), 1532.1200, and 1532.1500 to replace references to an obsolete system (Excluded Parties List System), acronym (EPLS), and website (<http://www.EPLS.gov>) with the current system (System for Award Management), acronym (SAM.gov Exclusions), and website (SAM.gov); these proposed changes also align with recent changes to 2 CFR part 180, which also reference the System for Award Management. Additionally, the proposed revisions to 2 CFR 1532.1200 include specific citations to referenced statutes to provide greater clarity.

Delta Regional Authority (DRA)

The Delta Regional Authority (DRA), established by Congress through the Delta Regional Authority Act of 2000 (7 U.S.C. 2009aa–1 *et seq.*), serves as a Federal-state partnership to address economic development needs in the Mississippi River Delta and Alabama Black Belt regions. This regulatory text proposes to formally adopt OMB's uniform administrative requirements to provide consistency and transparency in the administration of Federal financial assistance awarded by DRA.

This proposed action would not impose new grantmaking authority but would codify DRA's participation in the government-wide regulatory framework for financial assistance. DRA currently operates in substantial alignment with 2 CFR part 200, and this rulemaking would ensure ongoing compliance while allowing the agency to clarify or supplement OMB's guidance in the future if required by statute or regional conditions.

Federal Permitting Improvement Steering Council (FPISC)

The Federal Permitting Improvement Steering Council does not have independent authority to issue regulations specific to Federal financial assistance programs. It has therefore received approval from OMB to implement 2 CFR part 200 as a policy of the Federal Permitting Improvement Steering Council applicable to Federal

awards made by the Federal Permitting Improvement Steering Council, rather than as a regulation.

Agency for International Development (USAID)

Through this rulemaking, the U.S. Agency for International Development (USAID) proposes to remove chapter VII from 2 CFR Subtitle B. This change reflects recent Executive Branch actions to realign foreign assistance functions and responsibilities.¹⁰² Therefore, this document proposes to remove chapter VII to reflect the current administration of Federal foreign assistance programs.

VIII. Severability

In 2024, OMB added § 1.231 to the 2 CFR text addressing severability.¹⁰³ That section—which OMB does not propose to substantially modify through this rulemaking—explains that the provisions of OMB’s regulatory text are separate and severable from one another. It further explains that if any provision of the regulatory text is held to be invalid or unenforceable as applied to a particular person or circumstance, the provision should be construed so as to continue to give the maximum effect permitted by law as applied to other persons not similarly situated or to dissimilar circumstances. If any provision is determined to be wholly invalid and unenforceable, it should be severed from the remaining provisions of the 2 CFR regulatory text, which should remain in effect.

In the revised regulations proposed through this document, OMB proposes a unified regulatory scheme addressing how Federal agencies will manage Federal financial assistance to improve transparency, accountability, and oversight for Federal awards across the Federal Government. While the revised regulations would best serve OMB’s objectives for this rulemaking if left intact as proposed by OMB, the benefits of the guidance related to coordination across the Federal Government and improved transparency, accountability, and oversight do not hinge on any single provision. Accordingly, OMB considers individual provisions to be separate and severable from one another.

In the event of a stay or invalidation of any provision, or any provision as it applies to a particular person or circumstance, OMB’s intent is to otherwise preserve the 2 CFR regulatory text to the fullest possible extent. The provisions that remain in effect will continue to provide government-wide

policies applicable to Federal agencies to improve transparency, accountability, and oversight for Federal awards across the Federal Government. OMB believes that it is in the interest of Federal agencies, recipients and subrecipients of Federal awards, contractors, and other stakeholders in the Federal financial assistance community to leave the final regulatory text in place to the fullest extent possible and permitted by law.

IX. Indirect Cost Rates

On August 7, 2025, Executive Order 14332, Improving Oversight of Federal Grantmaking, directed OMB to revise the government-wide requirements related to indirect cost recovery to appropriately limit the use of discretionary grant funds for costs related to facilities and administration. Over the course of decades, reports from Congress, the oversight community, and various other organizations and commenters have expressed concerns regarding the Federal Government’s spending on overhead associated with grants and other forms of financial assistance.¹⁰⁴ Reports have identified

numerous flaws of the existing system, including its complexity, inefficiency, administrative burden, lack of public transparency, unfairness for smaller recipients, lack of oversight and public accountability, and lack of a policy mechanism to control excessive overhead costs.¹⁰⁵

In January 2026, legislative language related to indirect costs was included within appropriations for fiscal year 2026. For example, some of these provisions: (i) required specified agencies to continue applying the negotiated indirect cost rates in § 200.414 to the same extent and in the same manner as such negotiated indirect cost rates were applied in fiscal year 2024; and (ii) prohibited specified agencies from using funds appropriated for fiscal year 2026 to develop, modify, or implement changes to fiscal year 2024 negotiated indirect cost rates. Report language accompanying these provisions recognized “room for improvement in the system used to identify and recover indirect cost rates under the Uniform Guidance, particularly with respect to the need for greater transparency into these costs.” The report language also recognized various models suggested to achieve improvements to the existing system, including a model proposed by officials from the Joint Associations Group on Indirect Costs (JAG). Some have criticized the proposed JAG model for reasons including that it may increase overhead payments to large organizations and fail to resolve significant problems of the existing system, including complexity, inefficiency, and excessive overhead spending by the Federal Government.¹⁰⁶ The JAG model appears to focus only on research awards, which are a subset of

¹⁰⁴ See GAO Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, “Federal Research: System for Reimbursing Universities’ Indirect Costs Should Be Reevaluated,” United States Government Accountability Office (Aug. 26, 1992) (GAO Report No. 92–203); Genevieve J. Knezo, Cong. Rsch. Serv., Indirect Costs for R&D at Higher Education Institutions: Annotated Chronology of Major Federal Policies (CRS Report No. 94646) (Aug. 2, 1994); GAO Report to Congressional Committees, “University Research: Effect of Indirect Cost Revisions and Options for Future Changes,” United States Government Accountability Office (Mar. 6, 1995) (GAO Report No. 95–74); Genevieve J. Knezo, Cong. Rsch. Serv., Indirect Costs at Academic Institutions: Background and Controversy (CRS Report No. 91095) (Jan. 3, 1997); Roger G. Noll & William P. Rogerson, The Economics of University Indirect Cost Reimbursement in Federal Research Grants (1997). Stanford University Department of Economics WP 97–039; GAO Report to the Ranking Member, Committee on the Budget, U.S. Senate, “Biomedical Research: NIH Should Assess the Impact of Growth in Indirect Costs on Its Mission,” United States Government Accountability Office (Sep. 24, 2013) (GAO Report No. GAO–13–760); Anthony Cave, “Taking a Hard Look at University Research,” Stanford Social Innovation Review, Oct. 20, 2014; GAO Report to Congressional Requesters, “NIH Biomedical Research: Agencies Involved in the Indirect Cost Rate-Setting Process Need to Improve Controls,” GAO–16–616 (Sept. 28, 2016); GAO Report to the Chairman, Committee on Science, Space, and Technology, House of Representatives, “National Science Foundation: Preliminary Observations on Indirect Costs for Research,” United States Government Accountability Office (May 24, 2017) (GAO Report No. GAO–17–576T); GAO Report to the Chairman, Committee on Science, Space, and Technology, House of Representatives, “National Science Foundation: Actions Needed to Improve Oversight of Indirect Costs for Research,” United States Government Accountability Office (Sep. 28, 2017) (GAO Report No. GAO–17–721); Jay P. Greene and John Schoof, “Indirect Costs: How Taxpayers

Subsidize University Nonsense,” Heritage Foundation. Jan. 18, 2022; USAID Office of Inspector General, “Negotiated Indirect Cost Rate Agreements: Opportunities Exist to Improve Processes and Data Management,” Jan. 26, 2024 (Audit Report No. 3–000–24–001–U); George Calhoun, “Universities Face a Reckoning Over Federal R&D Funding (Pt 1),” Forbes, Feb. 26, 2025; Stephen Porter, “The research racket: How universities cash in on federal grants,” The Washington Examiner (Mar. 11, 2025); Heather Mac Donald, “Racist—But Underfunded?” City Journal, Spring 2025; Marcy E. Gallo & Laurie Harris, Cong. Rsch. Serv., Universities and Indirect Costs for Federally Funded Research (CRS Report No. R48540) (May 16, 2025); Marcy E. Gallo & Kavya Sekar, Cong. Rsch. Serv., NIH Indirect Costs Policy for Research Grants: Recent Developments (CRS Report No. IN12516) (Dec. 9, 2025); Open the Books Oversight Report, “Transparency Crisis: A Black Box of Overhead Spending & Academia’s Mission Creep from Rigorous Science,” Dec. 2025.

¹⁰⁵ *Id.*

¹⁰⁶ Jeffrey Mervis, “U.S. research community says new indirect cost model is still too complicated,” Science, Jul. 18, 2025.

¹⁰² See, e.g., Department of State, Congressional Notification Transmittal Letter, Mar. 28, 2025.

¹⁰³ 89 FR 30046 (Apr. 22, 2024).

those awards subject to indirect cost requirements under 2 CFR part 200.

In consideration of this legislative and report language, OMB is not proposing updates to the indirect cost rate negotiation system through this document. OMB may consider issuing a request for information on this topic in the future, but commenters should not submit comments on the indirect cost rate negotiation system in response to this document. As no changes are proposed on that topic, OMB does not intend to consider or respond to any such comments in the final rule.

X. Request for Comments

OMB and the participating agencies request comments on all aspects of the proposed regulation in this document, including on any reliance interests that commenters may have based on the existing text of 2 CFR that proposed revisions may affect, and that OMB and agencies should consider in deciding whether or how to finalize this regulation. OMB is also requesting information from recipients on requirements in 2 CFR that increase administrative burden—and particularly those that increase administrative costs. OMB also welcomes comments related to policies contained in 2 CFR that are not required by statute that OMB may consider removing.

The Federal agencies participating in this rulemaking also request comment on all aspects of their proposed regulations in this document, including on any reliance interests that commenters may have based on the existing text of 2 CFR subtitle B that the Federal agencies' respective proposals may affect, and that Federal agencies should consider in deciding whether or how to finalize this regulation.

XI. Proposed Effective Date and Length of Comment Period

OMB proposes to issue a final rule that is effective by October 1, 2026. The proposed effective date is important to ensure that only a single set of government-wide requirements apply to Federal awards made during fiscal year 2027. An effective date of October 1 is useful for the audit process and other reasons, including ensuring government-wide uniformity and transparency regarding which requirements apply to Federal awards made and amended during fiscal year 2027.

OMB is providing a 45-day comment period on the proposed rule. Before issuing this document, OMB also considered a shorter comment period of 30 days or a longer period of 60 days. The 45-day comment period is intended

to balance providing a path to issuing a final rule that is effective by October 1 with providing sufficient time for the public to comment on the proposed revisions in this document. Late comments will be considered only to the extent practicable.

Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives, and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The OMB Regulation for Grants and Agreements published in subtitle A of 2 CFR is a regulation applicable to Federal agencies. 2 CFR 1.100(b) (proposed version). The Office of Information and Regulatory Affairs within OMB has determined that the proposed amendments to 2 CFR are a significant regulatory action under section 3(f) of E.O. 12866. This rule is not expected to be considered a regulatory action under Executive Order 14192 because OMB has determined that it is exempt under that Executive Order.

Regulatory Impact Assessment

The Regulatory Impact Assessment (RIA) is included as a separate document.

Regulatory Flexibility Act

The Initial Regulatory Flexibility Analysis (IRFA) is included as a separate document. OMB also provides the following information related to the attached IRFA. For a rule subject to the notice-and-comment provisions of the APA, the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*, requires that an agency provide a final regulatory flexibility analysis or to certify that the rule will not have a significant economic impact on a substantial number of small entities. Based on the nature of the revisions proposed in this notice, OMB does not expect this guidance to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Courts have explained that the requirement under the RFA to analyze effects on small entities only applies to direct effects. Small entities that may be impacted indirectly, but not directly, are not subject to analysis under the RFA. *See Nat'l Women, Infants, & Child.*

Grocers Ass'n v. Food & Nutrition Serv., 416 F. Supp. 2d 92, 109–10 (D.D.C. 2006). Certain small entities that could be impacted by OMB's revised policies will only be impacted indirectly by agency-specific implementation of the requirements or through their interactions with recipients of Federal awards.

Unfunded Mandates Reform Act of 1995

The proposed revisions would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). The proposed guidance would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$168 million or more in any one year (2 U.S.C. 1532). In addition, the definition of “Federal Mandate” in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. Federal financial assistance programs subject to 2 CFR generally permit this type of flexibility.

Executive Order 13132 (Federalism Assessment)

This proposed regulation has been analyzed in accordance with the principles and criteria contained in E.O. 13132, “Federalism,” 64 FR 43255 (Aug. 10, 1999). OMB has determined that this proposed regulation would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The regulation in 2 CFR is inherently national in scope and significance.

Paperwork Reduction Act

This regulation does not contain a new requirement for information collection. Rather, it streamlines requirements in specific sections. Thus, the Paperwork Reduction Act does not apply.

Executive Order 13175 (Tribal Consultation)

OMB has analyzed this revised regulation in accordance with the principles and criteria contained in E.O. 13175, “Consultation and Coordination with Indian Tribal Governments” 65 FR 67249 (Nov. 9, 2000). During 2025, certain Tribal Nations shared concerns with OMB regarding potential impacts of 2 CFR revisions on the Federal Government's trust and treaty obligations to Tribal Nations, and related to implementation of certain statutes applicable to Tribes, such as the

Indian Self-Determination and Education Assistance Act (codified at 25 U.S.C. 5301–5423). OMB considered those concerns in developing this proposed rule. OMB will initiate formal Tribal consultation before a final rule is promulgated. Engagement with Tribes will help OMB to carefully consider Tribal concerns before proposed changes are made final.

List of Subjects

2 CFR Part 1

Grant programs, Grants administration.

2 CFR Part 25

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

2 CFR Part 170

Colleges and universities, Grant programs, Hospitals, International organizations, Loan programs, Reporting and recordkeeping requirements.

2 CFR Part 175

Administrative practice and procedure, Grant programs, Indians—tribal government, Nonprofit organizations, State and local governments.

2 CFR Part 176

Grants administration, Grant programs, Loan programs, Wages.

2 CFR Part 180

Administrative practice and procedure, Grant programs, Loan programs, Reporting and recordkeeping requirements.

2 CFR Part 182

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 183

Foreign aid, Grant programs, Grants administration, International organizations, Reporting and recordkeeping requirements.

2 CFR Part 200

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping

requirements, State and local governments.

2 CFR Part 300

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 376

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 382

Administrative practice and procedure, Drug abuse, Grant programs—health, Reporting and recordkeeping requirements.

2 CFR Part 400

Accounting, Administrative practice and procedure, Agriculture, Grant programs—agriculture, Loan programs—agriculture.

2 CFR Part 417

Administrative practice and procedure, Grant programs, Loan programs, Reporting and recordkeeping requirements.

2 CFR Part 421

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 600

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 601

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 700

Accounting, Administrative practice and procedure, Grant programs, Loan programs.

2 CFR Part 701

Foreign aid, Government contracts, Grant programs—foreign relations, Loan programs—foreign relations.

2 CFR Part 780

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 782

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 801

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 802

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 901

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 902

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 910

Accounting, Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1000

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Reporting and recordkeeping requirements.

2 CFR Part 1104

Business and industry, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Nonprofit organizations, Small businesses, State and local governments.

2 CFR Part 1120

Business and industry, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Nonprofit organizations, Small businesses, State and local governments.

2 CFR Part 1122

Business and industry, Colleges and universities, Grant programs, Grants administration, Hospitals, Human research subjects, Indians, Nonprofit organizations, Research, Small businesses, State and local governments.

2 CFR Part 1125

Administrative practice and procedure, Business and industry, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Nonprofit organizations, Reporting and recordkeeping requirements, Small businesses, State and local governments.

2 CFR Part 1126

Grant programs, Grants administration.

2 CFR Part 1200

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1201

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 1326

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1327

Accounting, Administrative practice and procedure, Government contracts, Grants administration.

2 CFR Part 1329

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1400

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1401

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1402

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 1500

Accounting, Administrative practice and procedure, Grant programs, Grant programs—environmental protection, Grants administration, Loan programs, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water resources, Water supply, Watersheds.

2 CFR Part 1532

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1536

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1600

Administrative practice and procedure, Reporting and recordkeeping requirements.

2 CFR Part 1800

Fees, Government property, Government publications, Grant programs, Grants administration.

2 CFR Part 1880

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1882

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 1900

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements.

2 CFR Part 2000

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2001

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2200

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2205

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2245

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2300

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2336

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2339

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2400

Accounting, Administrative practice and procedure, Government contracts,

Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2424

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2429

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2500

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2520

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2600

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2700

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2701

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2800

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 2867

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 2900

Accounting, Administrative practice and procedure, Government contracts, Grant programs, Grant programs—labor, Grants administration, Labor, Reporting and recordkeeping requirements.

2 CFR Part 2998

Administrative practice and procedure, Government procurement, Grant programs, Grants administration, Reporting and recordkeeping requirements.

2 CFR Part 3000

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3001

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3002

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 3185

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3186

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3187

Administrative practice and procedure, Civil rights, Grant programs, Museums.

2 CFR Part 3254

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3255

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 3256

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3369

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3373

Administrative practice and procedure, Drug abuse, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3374

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 3474

Accounting, Administrative practice and procedure, Government contracts,

Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 3485

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3513

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3603

Accounting, Administrative practice and procedure, Government contracts, Grants administration, Loan programs, Scholarships and fellowships.

2 CFR Part 3700

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 3701

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 5800

Administrative practice and procedure, Grant programs, Reporting and recordkeeping requirements.

2 CFR Part 5801

Accounting, Administrative practice and procedure, Federal financial assistance, Grant programs, Grants administration, Intergovernmental relations, State and local governments.

2 CFR Part 5900

Accounting, Administrative practice and procedure, Grant programs, Grants administration.

2 CFR Part 6000

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirement.

2 CFR Part 6100

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

2 CFR Part 6200

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping

requirements, State and local governments.

2 CFR Part 6300

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

2 CFR Part 6400

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

2 CFR Part 6500

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

2 CFR Part 6600

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

The Secretary of the Department of Health and Human Services, Robert F. Kennedy, Jr., approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

The Principal Deputy Chief Financial Officer of the Department of Agriculture, Candice M. Kinn, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Candice M. Kinn,

Principal Deputy Chief Financial Officer.

The Senior Advisor and Deputy Chief Acquisition Officer of the U.S. Department of State, Kyle Ilgenfritz, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for

purposes of publication in the **Federal Register**.

Kyle Ilgenfritz,

Senior Advisor and Deputy Chief Acquisition Officer.

The Chief Acquisition Officer of the Agency for International Development, Matthew Dickinson, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Matthew Dickinson,

Chief Acquisition Officer.

The Assistant Secretary for Management and Chief Financial Officer of the Department of Veteran Affairs, Richard Topping, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Richard Topping,

Assistant Secretary for Management and Chief Financial Officer.

The Office of Management Director of the Department of Energy, Derek Passarelli, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Derek Passarelli,

Office of Management Director.

The Assistant Secretary for Management of the Department of the Treasury, Dr. John W. York, Ph.D., approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

John W. York,

Assistant Secretary for Management.

The Research Policy Director of the Department of Defense, Jason Day, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Jason Day,

Research Policy Director.

The Assistant Secretary for Administration of the Department of Transportation, Anne Byrd, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Anne Sanford Byrd,

Assistant Secretary for Administration.

The Director for Acquisition Management of the Department of Commerce, Olivia Bradley, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the

Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Olivia Bradley,

Director for Acquisition Management.

Effective immediately, Troy Finnegan, Deputy Assistant Secretary, Exercising the Delegated Authority of the Assistant Secretary—Policy, Management and Budget, approves the *Regulation for Federal Financial Assistance*. The OMB Director, Russell Vought, is authorized to digitally sign the aforementioned document for publication in the **Federal Register**.

Troy Finnegan,

Deputy Assistant Secretary, Exercising the Delegated Authority of the Assistant Secretary—Policy, Management and Budget.

The Chief Financial Officer and Chief Administrative Office of the U.S. Environmental Protection Agency, C. Paige Hanson, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

C. Paige Hanson,

Chief Financial Officer and Chief Administrative Officer.

The Administrative Counsel of the U.S. International Development Finance Corporation, Lisa Wischkaemper, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Lisa Wischkaemper,

Administrative Counsel.

The Acting Senior Procurement Executive, Assistant Administrator for Procurement of the National Aeronautics and Space Administration, Marvin L. Horne, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Marvin L. Horne,

Assistant Administrator for Procurement.

The Deputy Director of Management Services of the U.S. Agency for Global Media, Christopher Luer, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Christopher Luer,

Deputy Director of Management Services.

The Acting Director of the Office of Administration of the Nuclear Regulatory Commission, Eleni Jernell, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for

purposes of publication in the **Federal Register**.

Eleni Jernell,

Acting Director, Office of Administration.

The Interim Agency Head of the Corporation for National and Community Service, Jennifer Bastress, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Jennifer Bastress,

Interim Agency Head.

The General Counsel of the Social Security Administration, Mark Steffensen, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Mark Steffensen,

General Counsel.

The Deputy Secretary of the Department of Housing and Urban Development, Andrew Hughes, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Andrew Hughes,

Deputy Secretary.

The Senior Official Performing the Duties of the Director of the National Science Foundation, Brian Stone, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Brian Stone,

Senior Official Performing the Duties of the Director.

The Acting Archivist of the United States of the National Archives and Records Administration, Edward C. Forst, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Edward C. Forst,

Acting Archivist of the United States.

The Administrator of the Small Business Administration, Kelly Loeffler, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Kelly Loeffler,

Administrator.

Pursuant to authority delegated from the Acting Attorney General, the Assistant Attorney General of the Office of Legal Policy, Department of Justice, Daniel E.

Burrows, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Daniel E. Burrows,

Assistant Attorney General, Office Of Legal Policy.

The Assistant Secretary for Administration and Management of the Department of Labor, Dean Heyl, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Dean Heyl,

Assistant Secretary for Administration and Management.

The Deputy Secretary of the Department of Homeland Security, Troy Edgar, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Troy Edgar,

Deputy Secretary.

The Deputy General Counsel and Acting General Counsel of the Institute of Museum and Library Services, Victoria H. Kauffman, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Victoria H. Kauffman,

Deputy General Counsel and Acting General Counsel.

The Chairman of the National Endowment for the Arts, Mary Anne Carter, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Mary Anne Carter,

Chairman.

The Acting General Counsel of the National Endowment for the Humanities, Lisette Voyatzis, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Lisette Voyatzis,

Acting General Counsel.

The Assistant Secretary of the Department of Education, Murray Bessette, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for

purposes of publication in the **Federal Register**.

Murray Bessette,

Assistant Secretary for the Office of Planning, Evaluation, and Policy Development.

The General Counsel of the Export-Import Bank of the United States, Tony Onorato, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Tony Onorato,

General Counsel.

The General Counsel of the Office of National Drug Control Policy, Dario Camacho, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Dario Camacho,

General Counsel.

The General Counsel of the Peace Corps, Alexis Fowler, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Alexis Fowler,

General Counsel.

The Executive Director of the Election Assistance Commission, Brianna Schletz, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Brianna Schletz,

Executive Director.

The Executive Director of the Gulf Coast Ecosystem Restoration Council, Mary Walker, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Mary Walker,

Executive Director.

The Managing Director of the Federal Communications Commission, Daniel Daly, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Daniel Daly,

Managing Director.

The Secretary of the Consumer Product Safety Commission, Alberta E. Mills, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this

document for purposes of publication in the **Federal Register**.

Alberta E. Mills,

Secretary.

The Federal Co-Chairman of the Delta Regional Authority, Corey Wiggins, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Corey Wiggins,

Federal Co-Chairman.

The Acting Executive Director of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council, Frederick Griefer, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Frederick Griefer,

Acting Executive Director.

The Executive Director of the Marine Mammal Commission, Peter O. Thomas, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Peter O. Thomas,

Executive Director.

The Acting Vice President and Chief Financial Officer of the Millennium Challenge Corporation, Abdel Maliky, approves this document, Regulation for Federal Financial Assistance, and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Abdel Maliky,

Acting Vice President and Chief Financial Officer.

By the National Credit Union Administration Board, this 13th day of May, 2026, the Secretary of the Board of the National Credit Union Administration, Melane Conyers-Ausbrooks, approves this Notice of Proposed Rule, Regulation for Federal Financial Assistance, (RIN 3133-AG07) and authorizes Russell T. Vought, Director of the Office of Management and Budget to digitally sign this document for purposes of publication in the **Federal Register**.

Melane Conyers-Ausbrooks,

Secretary of the Board.

Russell T. Vought,

Director, Office of Management and Budget.

For the reasons stated in the preamble, 2 CFR subtitles A and B are proposed to be amended as set forth below:

1. Revise part 1 to read as follows:**PART 1—ABOUT TITLE 2 OF THE CODE OF FEDERAL REGULATIONS AND SUBTITLE A****Subpart A—Introduction to Title 2 of the CFR**

Sec.

100 Content of this title.

1.105 Organization and subtitle content.

1.110 Issuing authorities.

Subpart B—Introduction to Subtitle A

1.200 Purpose of chapters I and II.

1.205 Applicability to Federal financial assistance.

1.210 Applicability to Federal agencies and others.

1.215 Relationship to previous issuances by OMB.

1.220 Federal agency implementation of this subtitle.

1.221 Alternative implementation of this subtitle by certain Federal agencies.

1.230 Maintenance of this subtitle.

1.231 Severability.

Subpart C—Responsibilities of OMB and Federal Agencies

1.300 OMB responsibilities.

1.305 Federal agency responsibilities.

Authority: 31 U.S.C. 503; 31 U.S.C. 1111; 31 U.S.C. 6307; 41 U.S.C. 1121; E.O. 11541, 35 FR 10737, 3 CFR, 1966–1970 Comp., p. 939; Reorganization Plan No. 2 of 1970.

Subpart A—Introduction to Title 2 of the CFR**§ 1.100 Content of this title.**

This title contains:

(a) Office of Management and Budget (OMB) regulations applicable to Federal agencies on Government-wide policies for the award and administration of Federal financial assistance, including the Uniform Grants Regulation (UGR) at part 200; and

(b) Federal agency regulations implementing or supplementing the OMB regulations.

§ 1.105 Organization and subtitle content.

(a) This title is organized into two subtitles.

(b) The OMB regulations described in § 1.100(a) are published in this subtitle.

(c) Each Federal agency that awards Federal financial assistance has a chapter in subtitle B of this title in which it issues the regulations described in § 1.100(b). Federal agency regulations in subtitle B adopt and implement the OMB regulations in this subtitle.

§ 1.110 Issuing authorities.

OMB issues this subtitle. Each Federal agency that has a chapter in subtitle B of this title issues that chapter.

Subpart B—Introduction to Subtitle A**§ 1.200 Purpose of chapters I and II.**

Chapters I and II of this subtitle provide OMB regulations applicable to Federal agencies that help to ensure consistent and uniform Government-wide policies, requirements, and procedures for the management of the agencies' Federal financial assistance.

§ 1.205 Applicability to Federal financial assistance.

The types of instruments that are subject to the regulations in this subtitle vary from one portion of the regulations to another. All portions of the regulations apply to grants and cooperative agreements, and some portions also apply to other types of Federal financial assistance.

§ 1.210 Applicability to Federal agencies and others.

(a) This subtitle contains regulations that directly apply only to Federal agencies.

(b) The regulations in this subtitle may affect other entities through each Federal agency's implementation of the regulations, portions of which may apply to:

(1) The agency's awarding or administering officials;

(2) Recipients and subrecipients that receive or apply for the agency's Federal financial assistance or receive subawards under grants or cooperative agreements; or

(3) Any other entities involved in agency transactions subject to the regulations in this chapter.

§ 1.215 Relationship to previous issuances by OMB.

This subtitle superseded previous OMB guidance issued under certain OMB circulars and other guidance documents related to the same subject matter.

§ 1.220 Federal agency implementation of this subtitle.

A Federal agency that awards Federal financial assistance subject to the OMB regulations in this subtitle implements or supplements the OMB regulations in agency regulations in subtitle B of this title and in guidance documents, policy documents, and procedural issuances, such as internal instructions to the agency's awarding and administering officials. An applicant, recipient, or subrecipient would see the effect of that implementation in the organization and content of the agency's announcements of funding opportunities and in its award terms and conditions.

§ 1.221 Alternative implementation of this subtitle by certain Federal agencies.

The Federal agencies listed in this section received approval from OMB to implement the OMB regulations in this subtitle, including part 200, as policy applicable to their Federal awards without establishing agency regulations in subtitle B of this title as described at § 1.220. Like all other Federal agencies, the listed Federal agencies must implement the requirements in this subtitle in their announcements of funding opportunities and the terms and conditions of their Federal awards. The listed Federal agencies are:

(a) Denali Commission;

(b) Southwest Border Regional Commission (SBRC);

(c) Southeast Crescent Regional Commission (SCRC);

(d) Appalachian Regional Commission (ARC);

(e) Northern Border Regional

Commission (NBRC);

(f) Federal Permitting Improvement Steering Council; and

(g) Export Import Bank of the United States.

§ 1.230 Maintenance of this subtitle.

OMB issues regulations in this subtitle after publication in the **Federal Register**. Any portion of the regulations that has a potential impact on the public is published with an opportunity for public comment.

§ 1.231 Severability.

The provisions of this subtitle are separate and severable from one another. If any provision of this subtitle is held invalid or unenforceable as applied to a particular person or circumstance, the provision should be construed so as to continue to give the maximum effect permitted by law as applied to other persons not similarly situated or to dissimilar circumstances. If any provision is determined to be wholly invalid and unenforceable, it should be severed from the remaining provisions of this subtitle, which should remain in effect.

Subpart C—Responsibilities of OMB and Federal Agencies**§ 1.300 OMB responsibilities.**

OMB is responsible for:

(a) Issuing and maintaining the regulations in this subtitle, as described in § 1.230;

(b) Interpreting requirements in this subtitle;

(c) Reviewing Federal agency regulations implementing or supplementing the requirements of this subtitle, as required by Executive Order 12866;

(d) Conducting broad oversight of Government-wide compliance with the regulations in this subtitle; and

(e) Performing other OMB functions specified in this subtitle.

§ 1.305 Federal agency responsibilities.

The head of each Federal agency that awards and administers Federal financial assistance subject to the OMB regulations in this subtitle is responsible for:

(a) Implementing the regulations in this subtitle;

(b) Ensuring that the Federal agency complies with its implementation of the OMB regulations;

(c) Coordinating with the Council on Federal Financial Assistance, the Grants Quality Service Management Office, and other governance committees as appropriate; and

(d) Performing other functions specified in this subtitle.

■ 2. Revise the heading of chapter I to read as follows:

Chapter I—OFFICE OF MANAGEMENT AND BUDGET GOVERNMENT-WIDE REGULATION FOR FEDERAL FINANCIAL ASSISTANCE

PART 25—UNIQUE ENTITY IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT

■ 3. The authority citation for part 25 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6101 note; 31 U.S.C. 6102; 31 U.S.C. 6307; 41 U.S.C. 2313; Pub. L. 109–282; Pub. L. 110–252; Pub. L. 113–101; Pub. L. 117–40.

■ 4. Revise § 25.100 to read as follows:

§ 25.100 Purpose of this part.

This part provides policies applicable to Federal agencies regarding:

(a) The unique entity identifier (UEI), which is the universal identifier for Federal financial assistance applicants, as well as recipients and their direct subrecipients (first-tier subrecipients); and

(b) The System for Award Management (*SAM.gov*), which is the repository for standard information about applicants and recipients.

■ 5. In § 25.200, revise paragraph (a) to read as follows:

§ 25.200 Requirements for notice of funding opportunities, regulations, and application instructions.

(a) A Federal agency that issues Federal financial assistance (see § 25.400) must include the requirements of paragraph (b) of this section in each notice of funding opportunity, regulation, or other issuance containing instructions for applicants that is issued

on or after the effective date of this regulation. A notice of funding opportunity is any electronic issuance that a Federal agency uses to announce a funding opportunity, whether it is called a “program announcement,” “notice of funding availability,” “broad agency announcement,” “research announcement,” “solicitation,” or any other term.

* * * * *

■ 6. In appendix A, in paragraph I.(c), revise the definition of “System for Award Management (*SAM.gov*)” to read as follows:

Appendix A to Part 25—Award Term

I. * * *

(c) * * *

System for Award Management (SAM.gov) means the Federal repository into which a recipient must provide the information required for the conduct of business as a recipient. Additional information about registration procedures may be found in SAM.gov.

* * * * *

PART 170—REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION

■ 7. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6102; 31 U.S.C. 6307; Pub. L. 109–282; Pub. L. 110–252; Pub. L. 113–101; Pub. L. 117–40.

■ 8. Revise § 170.100 to read as follows:

§ 170.100 Purpose of this part.

This part provides policies applicable to Federal agencies on establishing requirements for recipients of Federal awards to report information on subawards and executive total compensation, as required by the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by the Digital Accountability and Transparency Act of 2014 (Pub. L. 113–101) and other Public Laws, hereinafter referred to as the “Transparency Act.”

■ 9. In § 170.200, revise paragraph (a) to read as follows:

§ 170.200 Federal agency reporting requirements.

(a) Federal agencies must publicly report Federal awards that equal or exceed the micro-purchase threshold (see 2 CFR 200.1). Federal agencies must publish the required Federal award information on *USAspending.gov* in accordance with the policies provided by OMB and the U.S. Department of the Treasury’s Government-wide Spending Data Model (GSDM).

* * * * *

■ 10. In § 170.210, revise paragraph (a) to read as follows:

§ 170.210 Requirements for notices of funding opportunities, regulations, and application instructions.

(a) A Federal agency that makes Federal awards subject to the Transparency Act must include the requirements of paragraph (b) of this section in each notice of funding opportunity, regulation, or other issuance containing instructions for applicants under which Federal awards may be made that are subject to Transparency Act reporting requirements. A notice of funding opportunity is any electronic issuance that a Federal agency uses to announce a funding opportunity, whether it is called a “program announcement,” “notice of funding availability,” “broad agency announcement,” “research announcement,” “solicitation,” or any other term.

* * * * *

■ 11. In appendix A to part 170, revise paragraphs I.(a)(2)(i), I.(b)(2)(i), I.(c)(1)(iii), and I.(c)(2) to read as follows:

Appendix A to Part 170—Award Term

I. * * *

(a) * * *

(2) * * *

(i) The recipient must report each subaward described in paragraph (a)(1) of this award term to the Transparency Act Subaward Reporting System at *SAM.gov*.

* * * * *

(b) * * *

(2) * * *

(i) As part of the recipient’s registration profile at *SAM.gov*.

* * * * *

(c) * * *

(1) * * *

(iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986 after receiving this subaward. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <https://www.sec.gov/answers/excomp.htm>.)

(2) *Reporting Requirements.* Subrecipients must report to the recipient their executive total compensation described in paragraph (c)(1) of this appendix. The recipient is required to submit this information to the Transparency Act Subaward Reporting System at *SAM.gov* no later than the end of the month following the month in which the subaward was made. (For example, if the subaward was made on November 7, 2025, the subaward must be reported by no later than December 31, 2025).

* * * * *

PART 175—AWARD TERM FOR TRAFFICKING IN PERSONS

■ 12. The authority citation for part 175 continues to read as follows:

Authority: 22 U.S.C. 7104(g); 22 U.S.C. 7104a; 22 U.S.C. 7104b; 22 U.S.C. 7104c; 31 U.S.C. 503; 31 U.S.C. 6307; 31 U.S.C. 1111; 41 U.S.C. 1121; Reorganization Plan No. 2 of 1970; E.O. 11541, 35 FR 10737.

■ 13. In § 175.105, revise paragraph (a) introductory text to read as follows:

§ 175.105 Statutory requirement.

(a) Federal agencies are required to include in each Federal grant or cooperative agreement a condition that authorizes the Federal agency to terminate the award or take any remedial actions authorized by 22 U.S.C. 7104b(c), without penalty, if a private entity receiving funds under the award as a recipient or subrecipient engages in any of the activities described in 22 U.S.C. 7104(g) related to human trafficking, including:

* * * * *

PART 176—[Removed]

■ 14. Remove part 176.

PART 180—OMB GUIDELINES TO AGENCIES ON GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

■ 15. The authority citation for part 180 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6102; 31 U.S.C. 6307; Pub. L. 103–355; Pub. L. 109–282; Pub. L. 110–252; Pub. L. 111–84; Pub. L. 113–101; Pub. L. 115–232; Pub. L. 117–40; E.O. 12549; E.O. 12689.

■ 16. Revise § 180.5 to read as follows:

§ 180.5 What does this part do?

This part provides regulatory guidelines applicable to Federal agencies regarding how to implement the Government-wide debarment and suspension system for nonprocurement programs and activities.

■ 17. Revise § 180.15 to read as follows:

§ 180.15 To whom does this part apply?

This part provides regulatory guidelines applicable to Federal agencies. Federal agencies' implementation of this part governs the rights and responsibilities of other persons affected by the nonprocurement debarment and suspension system.

■ 18. Revise § 180.20 to read as follows:

§ 180.20 What must a Federal agency do to implement these guidelines?

As section 3 of Executive Order 12549 requires, each Federal agency with nonprocurement programs and activities

covered by subparts A through I of this part must issue regulations consistent with those subparts.

■ 19. In § 180.25, revise paragraph (a) and paragraph (b) introductory text to read as follows:

§ 180.25 What must a Federal agency address in its implementation of this part?

* * * * *

(a) Must establish policies and procedures for that Federal agency's nonprocurement debarment and suspension programs and activities consistent with this part. When adopted by a Federal agency, this part has a regulatory effect on that Federal agency's programs and activities. Federal agencies must not deviate from the requirements of this part on matters for which discretion is not provided.

(b) Must address some matters for which this part gives each Federal agency some discretion. Specifically, the regulation must:

* * * * *

■ 20. Revise § 180.150 to read as follows:

§ 180.150 Against whom may a Federal agency take an exclusion action?

Given a cause that justifies an exclusion under this part, a Federal agency may exclude any person who has been, is, or may reasonably be expected to be, a participant or principal in a covered transaction.

■ 21. In § 180.215, revise paragraph (h) to read as follows:

§ 180.215 Which nonprocurement transactions are not covered transactions?

* * * * *

(h) Notwithstanding paragraph (a) of this section, covered transactions must include non-procurement and procurement transactions involving entities engaged in activity that contributed to or is a significant factor in a country's non-compliance with its obligations under arms control, nonproliferation or disarmament agreements, or commitments with the United States. Federal agencies and primary tier non-procurement recipients must not award, renew, or extend a non-procurement transaction or procurement transaction, regardless of amount or tier, with any entity listed in *SAM.gov* Exclusions on the basis of involvement in activities that violate arms control, nonproliferation or disarmament agreements, or commitments with the United States (see section 1290 of the National Defense Authorization Act for Fiscal Year 2017). The head of a Federal agency may grant an exception to the requirement under this section only if the exception is:

(1) Made in accordance with § 180.135; and

(2) The OMB Director provides concurrence.

■ 22. Revise § 180.530 to read as follows:

§ 180.530 Where can I find SAM.gov Exclusions?

You may access *SAM.gov* Exclusions through the internet, currently at *SAM.gov*.

■ 23. Revise § 180.620 to read as follows:

§ 180.620 Do Federal agencies coordinate suspension and debarment actions?

Yes. When more than one Federal agency has an interest in a suspension or debarment, the agencies may consider designating one Federal agency as the lead agency for making the decision. Agencies are encouraged to establish methods and procedures for coordinating their suspension and debarment actions.

■ 24. In § 180.745, revise paragraph (b) to read as follows:

§ 180.745 How is fact-finding conducted?

* * * * *

(b) A transcribed record of fact-finding proceedings must be made, unless you, as a respondent, and the Federal agency agree to waive it in advance. If you want a copy of the transcribed record, you may purchase it and the Federal agency must provide it to you within five business days.

■ 25. In § 180.840, revise paragraph (b) to read as follows:

§ 180.840 How is fact-finding conducted?

* * * * *

(b) A transcribed record of fact-finding proceedings must be made unless you, as a respondent, and the Federal agency agree to waive it in advance. If you want a copy of the transcribed record, you may purchase it and the Federal agency must provide it to you within five business days.

■ 26. Revise § 180.915 to read as follows:

§ 180.915 Civil judgment.

Civil judgment means the disposition of a civil action by any court of competent jurisdiction, whether by verdict, decision, settlement, stipulation, or other disposition which creates a civil liability for the complained of wrongful acts or a final determination of liability under the Administrative False Claims Act of 2023 (31 U.S.C. 3801–3812).

■ 27. Revise § 180.965 to read as follows:

§ 180.965 Legal proceedings.

Legal proceeding means any criminal proceeding or any civil judicial proceeding, including a proceeding under the Administrative False Claims Act of 2023 (31 U.S.C. 3801–3812), to which the Federal Government or a State or local government or quasi-governmental authority is a party. The term also includes appeals from those proceedings.

PART 182—GOVERNMENT-WIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 28. The authority citation for part 182 continues to read as follows:

Authority: 41 U.S.C. 8101–8106; 31 U.S.C. 503; 31 U.S.C. 6307.

■ 29. Revise § 182.5 to read as follows:

§ 182.5 What does this part do?

This part provides regulations applicable to Federal agencies on the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101–8106, as amended) that applies to grants. It also applies the provisions of the Act to cooperative agreements and other financial assistance awards, as a matter of Federal Government policy.

■ 30. Revise § 182.15 to read as follows:

§ 182.15 To whom does this part apply?

This part provides regulations applicable to Federal agencies. Federal agencies’ implementation of this part governs the rights and responsibilities of other persons affected by the drug-free workplace requirements.

■ 31. Revise § 182.20 to read as follows:

§ 182.20 What must a Federal agency do to implement this part?

To comply with the requirement in 41 U.S.C. 8106 for Government-wide regulations, each Federal agency that awards grants or cooperative agreements or makes other financial assistance awards that are subject to the drug-free workplace requirements in subparts A through F of this part must issue a regulation consistent with those subparts.

■ 32. In § 182.25, revise paragraphs (a), (b) introductory text, and (c) to read as follows:

§ 182.25 What must a Federal agency address in its implementation of this part?

(a) Must establish drug-free workplace policies and procedures for that Federal agency’s Federal awards consistent with this part. When adopted by a Federal agency, this part has a regulatory effect on that Federal agency’s awards. Federal agencies must not deviate from the

requirements of this part on matters for which discretion is not provided.

(b) Must address some matters for which this part gives the Federal agency discretion. Specifically, the regulation must:

* * * * *

(c) May also, at the Federal agency’s option, identify any specific types of financial assistance awards, in addition to grants and cooperative agreements, to which the Federal agency makes this part applicable.

■ 33. Revise § 182.30 to read as follows:

§ 182.30 Where does a Federal agency implement this part?

Each Federal agency that awards grants or cooperative agreements or makes other financial assistance awards that are subject to the drug-free workplace regulation in this part must issue a regulation implementing the policy within its chapter in subtitle B of this title.

■ 34. Revise § 182.40 to read as follows:

§ 182.40 How is this part maintained?

The OMB publishes proposed changes to this part in the **Federal Register** for public comment, considers comments with the help of appropriate interagency working groups, and then issues any changes to this part in final form.

■ 35. In § 182.300, revise paragraph (b)(3) to read as follows:

§ 182.300 What must I do to comply with this part if I am an individual recipient?

* * * * *

(b) * * *

(3) To the Federal agency awarding official or their designee for each Federal award that you currently have, unless the agency designates a central point for the receipt of the notices, either in the award document or its regulation implementing the regulation in this part. When notice is made to a central point, it must include the identification number(s) of each affected Federal award.

■ 36. In § 182.510, revise paragraph (c) to read as follows:

§ 182.510 What actions will the Federal Government take against a recipient determined to have violated this part?

* * * * *

(c) Suspension or debarment of the recipient under the Federal agency’s regulation implementing the OMB regulation on nonprocurement debarment and suspension (2 CFR part 180) for a period not to exceed five years.

■ 37. In § 182.630, revise the section to read as follows:

§ 182.630 Debarment.

Debarment means an action taken by a Federal agency to prohibit a recipient from participating in Federal Government procurement contracts and covered nonprocurement transactions. A recipient so prohibited is debarred, in accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and Federal agency regulations implementing the OMB regulation on nonprocurement debarment and suspension (2 CFR part 180, which implements Executive Orders 12549 and 12689).

■ 38. Revise § 182.670 to read as follows:

§ 182.670 Suspension.

Suspension means an action taken by a Federal agency that immediately prohibits a recipient from participating in Federal Government procurement contracts and covered nonprocurement transactions for a temporary period, pending completion of an investigation and any judicial or administrative proceedings that may ensue. A recipient so prohibited is suspended in accordance with the Federal Acquisition Regulation for procurement contracts (48 CFR part 9, subpart 9.4) and Federal agency regulations implementing the OMB regulation on nonprocurement debarment and suspension (2 CFR part 180, which implements Executive Orders 12549 and 12689). Suspension of a recipient is a distinct and separate action from suspension of an award or suspension of payments under an award.

PART 183—NEVER CONTRACT WITH THE ENEMY

■ 39. The authority citation for part 183 continues to read as follows:

Authority: Pub. L. 113–291, as amended by Pub. L. 115–232, Pub. L. 116–92, Pub. L. 116–283, Pub. L. 117–263; 31 U.S.C. 503; 31 U.S.C. 6307.

■ 40. Revise § 183.5 to read as follows:

§ 183.5 Purpose of this part.

This part provides regulations applicable to Federal agencies on the implementation of the Never Contract with the Enemy requirements applicable to certain grants and cooperative agreements, as specified in subtitle E, title VIII of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015 (Pub. L. 113–291), as amended by sec. 820 of the National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117–263), hereinafter cited as “Never Contract with the Enemy”.

■ 41. In § 183.35, revise the definition of “Covered combatant command” to read as follows:

§ 183.35 Definitions.

* * * * *

Covered combatant command is defined in Pub. L. 113–291.

* * * * *

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 42. The authority citation for part 200 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6101–6106; 31 U.S.C. 6307; 31 U.S.C. 7501–7507.

■ 43. In § 200.1:

■ a. Revise the definitions for “Compliance supplement” and “Federal award date”;

■ b. Remove the definition for “Fixed amount award”;

■ c. Revise the definitions of “Improper payment”, “Notice of funding opportunity”, and “Personally Identifiable Information (PII)”;

■ d. Remove the definition for “Protected Personally Identifiable Information (Protected PII)”;

■ e. Revise the definition of “Unobligated balance”.

The revisions read as follows:

§ 200.1 Definitions.

* * * * *

Compliance supplement means an authoritative source of information for auditors that identifies existing important compliance requirements that the Federal Government expects to be considered as part of an audit. Auditors use it to understand the Federal program’s objectives, procedures, and compliance requirements, as well as audit objectives and suggested audit procedures for determining compliance with the relevant Federal program.

* * * * *

Federal award date means the date when the authorized official of the Federal agency:

(1) Signed (physically or digitally) the Federal award; or

(2) Obligated the Federal award by alternative means consistent with the requirements of 31 U.S.C. 1501.

* * * * *

Improper payment means a payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements. The term improper payment includes: any payment to an ineligible recipient;

any payment for an ineligible good or service; any duplicate payment; any payment for a good or service not received, except for those payments where authorized by law; any payment that is not authorized by law; and any payment that does not account for credit for applicable discounts. See OMB Circular A–123 Appendix C, Requirements for Payment Integrity Improvement, for additional definitions and guidance on the requirements for payment integrity.

* * * * *

Notice of funding opportunity (NOFO) means a formal announcement of the availability of Federal funding through a financial assistance program from a Federal agency. The notice of funding opportunity provides information on the award, such as who is eligible to apply, the evaluation criteria for selecting a recipient or subrecipient, the required components of an application, and how to submit the application. The notice of funding opportunity is any electronic issuance that an agency uses to announce a funding opportunity, whether it is called a “program announcement,” “notice of funding availability,” “broad agency announcement,” “research announcement,” “solicitation,” or some other term.

* * * * *

Personally Identifiable Information (PII) means information that can be used to distinguish or trace an individual’s identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

* * * * *

Unobligated balance means the amount of funds under a Federal award that the recipient or subrecipient has not obligated. For purposes of this definition, “obligated” means funds that the recipient or subrecipient has legally committed through actions such as placing an order, awarding a contract or subaward, or otherwise incurring a liability for which payment will be due. The amount of an unobligated balance is computed by subtracting the cumulative amount of the recipient’s or subrecipient’s unliquidated financial obligations and expenditures under the Federal award from the cumulative amount of funds the Federal agency or pass-through entity authorized the recipient or subrecipient to obligate.

* * * * *

■ 44. In § 200.101, revise paragraphs (b)(3)(ii), (b)(4), (b)(5)(i), (c)(2), (d), and (f) introductory text to read as follows:

§ 200.101 Applicability.

* * * * *

(b) * * *

(3) * * *

(ii) Section 200.216 (Prohibition of certain equipment, services, and systems) applies to loans and grants (see Pub. L. 115–232, Div. A, Title VIII, sec. 889, as amended); and

* * * * *

(4) Subpart E (Cost Principles) applies to grants and cooperative agreements, but does not apply to the following:

(i) Food commodities provided through grants and cooperative agreements;

(ii) Agreements for loans, loan guarantees, interest subsidies, and insurance; and

(iii) Federal awards to hospitals (see Appendix IX—Hospital Cost Principles).

(5) * * *

(i) Grants and cooperative agreements;

* * * * *

(c) * * *

(2) Cost-reimbursement contract under the FAR awarded to a non-Federal entity. When a non-Federal entity is awarded a cost-reimbursement contract under the FAR, only subpart D, §§ 200.331 through 200.333, and subparts E and F are applicable. See 48 CFR 16.301–2.

* * * * *

(d) Governing provisions in cases of conflict—(1) Statutory conflicts. With the exception of subpart F, which is required by the Single Audit Act, Federal statutes govern in any circumstances where they conflict with the provisions of this part. For agreements with Indian Tribes, this includes the provisions of the Indian Self-Determination and Education and Assistance Act (ISDEAA), as amended (see 25 U.S.C. 5301–5423).

(2) Regulatory conflicts. In the case of a Federal regulation that conflicts with the provisions of this part but that is not required by a Federal statute, once a Federal agency has issued regulations adopting the OMB regulations in this part, the following provisions of this part will govern in any circumstances where they conflict with the other regulatory provision: all sections in subpart F and § 200.340 in subpart D. See also § 200.106(a) regarding the process for issuing codified exceptions under this title. For other non-statutory conflicts involving a policy in a Federal regulation, once a Federal agency has issued regulations adopting the OMB regulations in this part, the Federal agency should apply the Government-wide policies in this part to the greatest extent permitted by law. If a Federal agency is aware of regulatory conflicts

that could potentially affect activities under a Federal program or Federal award, the agency should clarify which provisions govern in funding opportunities and Federal award documents. Unless prohibited by statute, as a default presumption, a Federal agency should generally apply the government-wide policies in this part if it can do so consistent with law. Federal agencies should work to resolve any such regulatory conflicts consistent with their rulemaking authorities; applicable provisions of this part, such as §§ 200.102, 200.106, and 200.110; or both.

* * * * *

(f) *Additional program applicability.* Except for §§ 200.203 and 200.216, the regulation in subpart C does not apply to the following programs:

* * * * *

■ 45. In § 200.102, revise paragraphs (b) and (c) to read as follows:

§ 200.102 Exceptions.

* * * * *

(b) *Statutory and regulatory exceptions.* Except for subpart F of this part, and subject to § 200.101(d), a Federal agency may adjust requirements applicable to a class of Federal awards, recipients, or subrecipients when required by Federal statutes or regulations. Except for provisions in subpart F, when a Federal statute requires exceptions to requirements of this part for a class of Federal awards, recipients, or subrecipients, a Federal agency does not need OMB approval to allow those exceptions. See also § 200.106.

(c) *Federal agency exceptions.* Federal agencies may allow exceptions to requirements of this part on a case-by-case basis for individual Federal awards, recipients, or subrecipients, except when the exceptions are expressly required by this part. See, for example, § 200.340. Only the cognizant agency for indirect costs may authorize exceptions related to cost allocation plans or indirect cost rate proposals.

■ 46. Revise § 200.106 to read as follows:

§ 200.106 Agency implementation and responsibilities.

(a) *Agency implementation of this part.* 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 A through F of this part in codified regulations unless

different provisions are required by Federal statute or are approved by OMB.

(b) *Agency responsibilities.* Through adoption of this part in codified regulations, unless different provisions are required by Federal statute or are approved by OMB, Federal agencies are responsible for implementing:

(1) The language in subparts A through F of this part; and

(2) Other applicable requirements for Federal awards in parts 25, 170, 175, 180, 182, 183, and 184 of chapter I of this subtitle.

■ 47. Revise § 200.108 to read as follows:

§ 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.

■ 48. In § 200.110, revise paragraph (a) to read as follows:

§ 200.110 Effective date.

(a) The Government-wide 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. Thus, once Federal agencies have issued regulations in subtitle B of this title adopting the OMB regulations in this part, the process for future updates of regulations in subtitle B will be complete each time OMB issues a final rule amending this part. If required by Federal statute or otherwise approved by OMB, Federal agencies remain permitted to amend their regulations in subtitle B to make agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures in this part. See § 200.106(a).

* * * * *

■ 49. Revise § 200.111 to read as follows:

§ 200.111 English language.

All Federal financial assistance announcements, applications, and Federal award information must be in the English language and must be in terms of U.S. dollars.

■ 50. Revise § 200.112 to read as follows:

§ 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. A recipient or subrecipient must also disclose whether any employees who worked on an application for, or proposal in support of, a resulting Federal award, or are anticipated to work on activities under the Federal award, were employed by the awarding Federal agency during the preceding two years prior to application submission. This disclosure must be provided to agencies for informational purposes.

■ 51. Revise § 200.113 to read as follows:

§ 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 Federal 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 to this part. Failure to make required disclosures can result in any of the administrative actions described in § 200.339. (See also 2 CFR part 180, 31 U.S.C. 3354, and 41 U.S.C. 2313.) Any such disclosures made to the agency's office of Inspector General must be transmitted to the United States Attorney's Office for the District of Columbia within ten days of receipt.

■ 52. Revise § 200.201 to read as follows:

§ 200.201 Use of grants, cooperative agreements, and contracts.

(a) *Federal awards.* The Federal agency must decide on the appropriate type of agreement for a Federal award (for example, a grant, cooperative agreement, or contract) in accordance with this regulation. See the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–6309). See § 200.332 for information applicable to pass-through entities.

(b) *Fixed amount awards.* Fixed amount awards are not permitted unless otherwise authorized by Federal statute. The term *fixed amount award* means a type of grant or cooperative agreement in which the Federal agency or pass-

through entity provides a specific amount of funding without regard to actual costs incurred under the Federal award. See also § 200.333 regarding fixed amount subawards, which also are not permitted.

■ 53. In § 200.202:

■ a. Revise paragraphs (a) introductory text, (a)(1), and (b); and

■ b. Add paragraphs (c) through (g).

The revisions and additions read as follows:

§ 200.202 Program planning and design.

(a) *Elements of program design.* The Federal agency must design a Federal program and create an Assistance Listing before announcing the Notice of Funding Opportunity. A Federal program must be designed:

(1) With clear goals and objectives that:

(i) Aim to achieve meaningful results;

(ii) Are consistent with the public purpose of the program as authorized by law; and

(iii) Align with administration policies and priorities;

* * * * *

(b) *Other considerations.* Federal agencies should develop Federal programs in consultation with communities benefiting from or impacted by the program. In addition, Federal agencies should consider available data, evidence, and evaluation results from past programs and make every effort to extend eligibility requirements to all potential applicants. Federal agencies are encouraged to coordinate with other agencies during program planning and design, particularly when the goals and objectives of a program or project align with those of other agencies.

(c) *Limitations on authorized use of Federal program funds.* Federal agencies must develop Federal programs and implement activities under those programs in a manner that ensures compliance with all applicable restrictions on the use of Federal funds, including ensuring that Federal program funds are only used for public purposes of support authorized by law. For example, Federal agencies must ensure that Federal program funds are not used to promote, subsidize, or support political activities or initiatives unrelated to authorized public purposes, such as political advocacy, lobbying, or any attempt to influence legislation, elections, or government officials. Federal programs should be developed to avoid even the appearance of supporting such prohibited activities to ensure that all activities performed under Federal awards are authorized by law.

(d) *Eligibility of nonprofit organizations.* To the extent permitted by law, when a Federal agency determines it is necessary to restrict eligibility among different types of nonprofit organizations, the notice of funding opportunity must specify the applicable Internal Revenue Code designation for eligible nonprofit organizations (for example, 501(c)(3) organizations) and expressly state that other types of nonprofit organizations not specifically identified are ineligible (for example, 501(c)(4) organizations). When eligibility is restricted among different types of nonprofit organizations, the Federal agency is not required to list every type of ineligible organization, but should ensure that eligibility information is sufficiently clear for prospective applicants. Federal agencies should consider exercising such discretion when warranted by statute, program objectives, or risk considerations.

(e) *Eligibility of entities for research and development awards.* (1) To the extent permitted by law, Federal awards for research and development must be made to entities that are organized under the laws of the United States, a State, or Tribal government. Federal agencies may not issue Federal awards for research and development to foreign entities except where expressly authorized by statute or where a compelling interest exists for the agency's mission, the administration's priorities, and for the United States, as determined by the agency's senior appointee.

(2) When designing research and development programs, and evaluating applications, Federal agencies must apply a domestic-first framework, under which international elements may be included only if the Federal agency determines that such elements are justified, consistent with program objectives, and in the national interest of the United States.

(3) Federal agencies should consider, as applicable, the following factors when determining whether an international element is warranted:

(i) The extent to which the proposed international element is necessary to achieve the scientific or technical objectives of the project and is integral to the scientific rationale of the program.

(ii) The extent to which the international element provides access to unique expertise, facilities, data, study populations, environmental conditions, or other resources that are not reasonably available within the United States.

(iii) The likelihood that the proposed international element will enhance the scientific enterprise of the United States, including through the development of new knowledge, methodologies, technologies, or collaborative networks that can be applied domestically.

(iv) The adequacy of the facilities, equipment, personnel, and administrative capacity at the international site, or of any foreign entities that would perform work, to carry out the proposed scope of work under the Federal award at a level comparable to that of a domestic recipient performing similar activities.

(4) Nothing in this paragraph (e) prohibits the participation of foreign entities as subrecipients or contractors under a research and development award made to an eligible U.S. entity.

(5) For the purposes of this section, international elements may include performance of activities under the Federal award outside of the United States or by a foreign entity.

(f) *Multi-year awards.* When consistent with program objectives, and subject to restrictions in law, Federal agencies are encouraged to design Federal programs to allow for multi-year awards with budget periods longer than one year, rather than issuing separate notices of funding opportunities on an annual basis. Such Federal awards must be designed to comply with all applicable funding limitations and must not be administered in a manner that would result in a violation of the Antideficiency Act.

(g) *Awards for scientific research.* Federal agencies that issue Federal financial assistance for scientific research must categorize those awards as basic research, applied research, and experimental development consistent with the definitions in OMB Circular A-11. This categorization must be communicated to the recipient and included in the terms and conditions of the Federal award. See § 200.211(d).

■ 54. Revise § 200.204 to read as follows:

§ 200.204 Notices of funding opportunities.

(a) *In general.* The Federal agency must publicly announce funding opportunities for all discretionary awards. As appropriate and consistent with authorizing law, funding opportunities may allow for open competition, limited competition, or selection on a non-competitive basis. See the definition of *discretionary award* in § 200.1. In developing notices of funding opportunities (NOFOs) for

discretionary awards, Federal agencies must:

(1) Post the NOFO on *Grants.gov*. A Federal agency head (or designee) may approve exceptions to this requirement when the agency determines that publicly announcing an opportunity would pose a risk to national security or is in the national interest of the United States. The Federal agency may either post the entire notice or a link to the entire notice;

(2) Require applicants to apply using *Grants.gov*, unless a program specific exception is expressly authorized by Federal statute or approved by the Federal agency head (or designee);

(3) Write the NOFO in plain language. The Federal agency must make efforts to limit the length and complexity of the NOFO and only include the information necessary for the effective communication of the program objectives. The Federal agency must not require the applicant to employ technical or legal consultants to complete an application in response to the NOFO. A NOFO should be drafted to reasonably allow for all applicants to compete and succeed against institutions that have historically received consecutive awards in prior years;

(4) Follow the policy in § 200.111; and

(5) Make every effort to identify all eligible applicants in the notice.

(b) *Pre-application technical assistance*. Federal agencies may offer pre-application technical assistance or provide clarifying information for funding opportunities. However, Federal agencies must ensure these resources are made accessible and widely available to all potential applicants (for example, by posting answers to questions and requests on *Grants.gov*).

(c) *Statement of Interest (SOI)*. When a Federal agency anticipates receiving a large volume of applications, or where proposals are expected to be long and complex, the agency is strongly encouraged to request a Statement of Interest (SOI) as part of the notice of funding opportunity. A SOI is a short pre-application submission, typically no more than a few pages, that allows applicants to summarize their project concept, objectives, and anticipated approach. Following submission of SOIs, the Federal agency must review SOI proposals in accordance with § 200.205 to determine which applicants will be invited to submit full proposals. When utilizing a SOI process, Federal agencies must not compare any SOI submission against a full proposal, and may only review full proposals from

applicants that are invited to submit a full proposal based on their SOI. The purpose of an SOI is to reduce burden on applicants by avoiding the preparation of lengthy proposals while also assisting Federal agencies in identifying the most competitive applicants early in the process.

(d) *Summary information in notices of funding opportunities*. The Federal agency must display the following information on *Grants.gov* or other system authorized by Federal statute or approved by the Federal agency head (or designee), in a location preceding the full text of the announcement:

(1) Federal Agency Name;

(2) Funding Opportunity Title;

(3) Announcement Type (whether the funding opportunity is the initial announcement or a modification of a previously announced opportunity);

(4) Funding Opportunity Number (required, if the Federal agency has assigned a number to the funding opportunity announcement);

(5) Assistance Listing Number(s);

(6) Funding Details. To the extent appropriate, the total amount of funding that the Federal agency expects to award, the anticipated number of awards, and the expected dollar values of individual awards, which may be a range or average;

(7) Key Dates. Key dates include due dates for submitting applications or Executive Order 12372 submissions, as well as for any letters of intent or SOI submissions. For any announcement issued before a program's application materials are available, key dates also include the date on which those materials will be released; and any other additional information, as deemed applicable by the Federal agency. For opportunities that require the submission of a SOI, the Federal agency must provide a date by which it will inform selected applicants to submit a full proposal. For all opportunities, if possible, the Federal agency should provide an anticipated award date. If the notice of funding opportunity states that applications will be evaluated on a "rolling" basis (that is, at different points during a specified period of time), the Federal agency should provide an estimate of the time needed to process an application and notify the applicant of the Federal agency's decision;

(8) Executive Summary. A brief description that is written in plain language and summarizes the goals and objectives of the program, the target audience, and eligible applicants. The text of the executive summary must not exceed 500 words, unless authorized by

the head of the Federal agency (or their designee); and

(9) Agency contact information.

(e) *Availability period*. The Federal agency should make all funding opportunities available for application for at least 60 calendar days. However, the Federal agency may modify the availability period of an opportunity if needed. For example, extending the period may be necessary to provide technical assistance to an applicant pool that was not anticipated when the announcement was made or has less experience with applying for Federal financial assistance. The Federal agency may also determine that an availability period of less than 60 days is sufficient for a particular funding opportunity. However, no funding opportunity will be available for less than 30 calendar days unless the Federal agency determines that exigent circumstances justify this and includes this justification in the funding opportunity.

(f) *Full text of notices of funding opportunities*. (1) The Federal agency must include the information in appendix I for every NOFO. (2) Federal agencies must write NOFOs in plain language. To the extent possible Federal agencies must streamline opportunities to make them accessible, particularly for funding opportunities that are new, or intended to reach inexperienced applicants. Federal agencies, when feasible, should strive to ensure that NOFOs are accessible to a broad range of applicants, including those that have not previously received Federal awards. OMB will periodically analyze recipients of Federal awards. Federal agencies may be required to submit a report to OMB detailing the specific recipients or types of recipients that received Federal awards from the Federal agency over a specific time period.

(3) To reduce application burden, Federal agencies should consider whether programmatic or administrative requirements specific to the agency, program, or funding opportunity must be met at the time of application or as a requirement of receiving a Federal award.

■ 55. Revise § 200.205 to read as follows:

§ 200.205 Federal agency merit review of proposals.

(a) *In general*. Unless prohibited by Federal statute, the Federal agency must design and execute a merit review process of applications for all discretionary awards. See the definition of *discretionary award* in § 200.1. The objective of a merit review process is to select recipients most likely to be

successful in delivering results based on the program objectives as outlined in § 200.202. A merit review is an objective process of evaluating Federal award applications in accordance with the written standards of the Federal agency. These standards should identify the number of people the agency requires to participate in the merit review process. The merit review process explained in this section, including the pre-issuance review described in paragraph (b) of this section, must be described or incorporated by reference in the applicable NOFO. The pre-issuance review described in paragraph (b) may form the basis of a decision not to select an applicant to receive a Federal award. See § 200.204 and appendix I to this part. The Federal agency must also periodically review its merit review process.

(b) *Pre-issuance review.* As part of the merit review process, Federal agencies must perform pre-issuance reviews to ensure that Federal award proposals selected for funding are consistent with applicable law, Federal agency priorities, and the national interest. In doing so, Federal agencies heads must designate one or more senior appointees to conduct a pre-issuance review of all discretionary awards. As part of this pre-issuance review for discretionary awards, senior appointees (or their designee) must, as relevant and to the extent consistent with applicable law, apply the following principles when reviewing Federal award proposals:

(1) Discretionary awards must, where applicable, demonstrably advance the President's policy priorities.

(2) Discretionary awards must not be used to fund, promote, encourage, subsidize, or facilitate:

(i) Racial preferences or other forms of racial discrimination by the recipient, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation;

(ii) Denial by the recipient of the sex binary in humans or the notion that sex is a chosen or mutable characteristic;

(iii) Illegal immigration; or

(iv) Any other initiatives that compromise public safety or promote anti-American values.

(3) All else being equal, preference for discretionary awards should be given to institutions with lower indirect cost rates.

(4) Discretionary awards should be given to a broad range of recipients. Research grants should be awarded to a mix of recipients likely to produce immediately demonstrable results and recipients with the potential for potentially longer-term, breakthrough

results, in a manner consistent with the notice of funding opportunity.

(5) In performing activities under Federal awards, applicants should commit to complying with administration policies, procedures, and guidance respecting Gold Standard Science.

(6) Discretionary awards should include benchmarks for measuring success and progress towards relevant goals and, as relevant for awards pertaining to scientific research, a commitment to achieving Gold Standard Science. See also § 200.202(a).

(7) To the extent institutional affiliation is considered in making discretionary awards, agencies should prioritize an institution's commitment to rigorous, reproducible scholarship over its historical reputation or perceived prestige. For science grants, agencies should prioritize institutions that have demonstrated success in implementing Gold Standard Science.

(8) See also §§ 200.202(c) and 200.300.

(c) *Procedure for pre-issuance review.* When conducting a pre-issuance review, senior appointees (or their designee) must not ministerially ratify or routinely defer to the recommendations of others, but must instead use their independent judgment when evaluating Federal award proposals.

(d) *Use of peer review.* Nothing in this part must be construed to discourage or prevent the use of peer review methods to evaluate proposals for discretionary awards or otherwise inform agency decision making, provided that peer review recommendations remain advisory and are not ministerially ratified, routinely deferred to, or otherwise treated as de facto binding by senior appointees or their designees. Further, nothing in this part must be construed to create any rights to any particular level of review or consideration for any funding applicant except as consistent with applicable law.

(e) *Agency discretion to reissue funding opportunities.* A Federal agency is not required to issue a discretionary award as a result of a NOFO if doing so would fund low-quality proposals or be inconsistent with the principles of this part. The agency may, at its discretion, repost a funding opportunity.

■ 56. In § 200.206, revise paragraphs (b) and (d) to read as follows:

§ 200.206 Federal agency review of risk posed by applicants.

* * * * *

(b) *Risk assessment*—(1) *In general.* The Federal agency must establish and maintain policies and procedures for

conducting a risk assessment to evaluate the risks posed by applicants before issuing Federal awards. This assessment helps identify risks that may affect the advancement toward or the achievement of a project's goals and objectives. Risk assessments assist Federal managers in determining appropriate resources and time to devote to project oversight and monitor recipient progress. This assessment should be conducted no earlier than 30 days before the award decision and may incorporate elements such as the quality of the application, award amount, risk associated with the program, cybersecurity, and fraud risks. If the Federal agency determines that the Federal award will be made, specific conditions that address the assessed risk may be implemented in the Federal award. The risk criteria to be evaluated must be described in the announcement of the funding opportunity described in § 200.204.

(2) *Items for consideration.* In evaluating risks posed by applicants, the Federal agency should consider the following items:

(i) *Financial stability.* The applicant's record of effectively managing financial risks, assets, and resources;

(ii) *Financial capacity.* The applicant's ability to manage and oversee high-dollar awards, especially those that are in excess of awards the applicant typically implements, as determined by the Federal agency;

(iii) *Management systems and standards.* Quality of management systems and ability to meet the management standards prescribed in this part;

(iv) *History of performance.* The applicant's record of managing previous and current Federal awards, including compliance with reporting requirements and conformance to the terms and conditions of Federal awards. If prior performance is considered, it should be evaluated solely on the outcomes of prior work, with both positive and negative outcomes measured against the goals of the funding opportunity and given equal weight, if applicable;

(v) *Audit reports and findings.* Reports and findings from audits performed under subpart F of this part or the reports and findings of any other available audits, if applicable;

(vi) *Ability to effectively implement requirements.* The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on recipients of Federal awards;

(vii) *History of questionable practices.* Based on publicly available and verifiable information, the applicant's record of:

- (A) Plagiarism in studies or papers published by the applicant or its staff;
- (B) Discredited or non-replicable studies published by the applicant or its staff;
- (C) Engaging in activities or initiatives that are inconsistent with Federal civil rights laws, including the equal protection principles of the U.S. Constitution and prohibitions against unlawful discrimination; or
- (D) Engaging in activities or initiatives that are inconsistent with religious liberty laws.

(viii) *Memberships and affiliations.* Based on publicly available and verifiable information, the applicant's membership in or affiliation with organizations engaged in activities that violate Federal law, undermine public safety or national security, or advocate for the overthrow of the United States Government; and

(ix) *Foreign gift and contract reporting.* As applicable, the applicant's compliance with foreign gift and contract disclosure requirements under section 117 of the Higher Education Act of 1965 (Pub. L. 89–329, as amended, codified at 20 U.S.C. 1011f).

* * * * *

(d) *Suspension and debarment compliance.* The Federal agency must comply with the Government-wide suspension and debarment regulation in 2 CFR part 180 and individual Federal agency suspension and debarment requirements in title 2 of the Code of Federal Regulations. Federal agencies must also require recipients to comply with these requirements. These requirements restrict making Federal awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from receiving Federal awards or participating in Federal awards.

■ 57. In § 200.207, add paragraph (c) to read as follows:

§ 200.207 Standard application requirements.

* * * * *

(c) *Reducing administrative and regulatory burden.* Federal agencies that issue Federal financial assistance must periodically review programmatic and administrative requirements specific to the agency, program, or award(s) to determine whether such requirements are unnecessary and not required by this part or applicable law. Federal agencies should update OMB annually on any such requirements that have been removed.

■ 58. Revise § 200.208 to read as follows:

§ 200.208 Specific conditions.

(a) *In general.* Federal agencies are responsible for ensuring that specific Federal award conditions and performance expectations for Federal awards are consistent with the program design (see §§ 200.202 and 200.301).

(b) *Adjustment of specific conditions.*

(1) To the extent permitted by law, based on consideration of the factors listed in paragraph (c) of this section, the Federal agency may:

- (i) Add specific conditions when a Federal award is made; and,
- (ii) Add or remove specific conditions throughout the period of performance.

(2) The addition or removal of specific conditions for existing Federal awards based on consideration of the factors listed in paragraph (c) of this section must occur within 15 calendar days after the Federal agency's determination to adjust the conditions. Specific conditions not based on factors in paragraph (c) may be added or removed during the period of performance only with the agreement of the recipient.

(c) *Factors for consideration.* The Federal agency or pass-through entity may adjust specific conditions in the Federal award based on an analysis of the following factors:

- (1) Review of OMB-designated repositories of Government-wide data (for example, *SAM.gov*) or review of its risk assessment (see § 200.206);
- (2) The recipient's or subrecipient's history of compliance with the terms and conditions of Federal awards, including the Federal award the Federal agency is adjusting (see also § 200.339);
- (3) The recipient's or subrecipient's ability to meet expected performance goals as described in § 200.211; or
- (4) A determination of whether a recipient or subrecipient has inadequate financial capability to perform the Federal award.

(d) *Examples of specific conditions.* Specific conditions may include the following:

- (1) Requiring payments as reimbursements rather than advance payments;
- (2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance;
- (3) Requiring additional or more detailed financial reports, which may include requiring information on payments to subrecipients, contractors and vendors;
- (4) Requiring additional project monitoring, which may include financial integrity-related site visits with the goal of improving the financial integrity of the program or recipient organization;

(5) Requiring the recipient or subrecipient to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(e) *Notification.* Prior to imposing specific conditions, the Federal agency or pass-through entity must notify the recipient or subrecipient as to:

- (1) The nature of the specific condition(s);
- (2) The reason why the specific condition(s) is being imposed;
- (3) The nature of the action needed to remove the specific condition(s);
- (4) The time allowed for completing the actions; and
- (5) The method for requesting the Federal agency or pass-through entity to reconsider imposing a specific condition.

(f) *Program-level specific conditions.* Notwithstanding any other provision of this section, the Federal agency may include program-level specific Federal award conditions, including any of the specific conditions described in paragraph (d) of this section, in any Federal award made under a Federal program that the Federal agency determines presents elevated programmatic risk related to program administration, program oversight, or effective monitoring of the use or expenditure of Federal funds by recipients or subrecipients. Federal agencies are responsible for ensuring that program-level specific Federal award conditions and performance expectations are consistent with the program design (see §§ 200.202 and 200.301) and applicable law. The Federal agency may remove program-level specific conditions if it determines that the Federal program no longer presents elevated programmatic risk.

- 59. In § 200.211:
 - a. Revise paragraphs (b)(15) and (16) and (c)(1)(v);
 - b. Remove paragraph (c)(3); and
 - c. Redesignate paragraph (c)(4) as paragraph (c)(3).

The revisions read as follows:

§ 200.211 Information contained in a Federal award.

* * * * *

- (b) * * *
 - (15) Identification of whether the Award is Research and Development (R&D) (see also § 200.202(g)); and
 - (16) Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414).

(c) * * *

- (1) * * *

(v) *Termination provisions.* Federal agencies must inform recipients of the termination provisions in § 200.340.

Except as provided in § 200.340(b), the Federal agency must always include the termination provisions set forth in § 200.340(a)(1) through (4) in each Federal award or expressly incorporate them by reference. Pursuant to § 200.340(a)(5), if applicable, the Federal agency must also inform recipients of any additional termination provisions that apply to a Federal award, including any applicable termination provisions in the Federal agency's regulations. Subject to the limitations in § 200.340(b), such additional provisions must not limit the right of the Federal agency to terminate for any of the reasons in § 200.340(a)(1) through (4).

* * * * *

■ 60. In § 200.213, revise paragraph (e) to read as follows:

§ 200.213 Reporting a determination that an applicant is not qualified for a Federal award.

* * * * *

(e) Federal agencies must not post any information that will be made publicly available in the non-public segment of the responsibility and qualification records that is covered by a disclosure exemption under the Freedom of Information Act. If a recipient asserts within seven calendar days to a Federal agency that some or all of the publicly available information is covered by a disclosure exemption under the Freedom of Information Act (5 U.S.C. 552), the Federal agency that posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

■ 61. Revise § 200.215 to read as follows:

§ 200.215 Never contract with the enemy.

Federal agencies, recipients, and subrecipients are subject to the regulation implementing Never Contract with the Enemy in 2 CFR part 183. The regulation in 2 CFR part 183 affects covered contracts, grants, and cooperative agreements that are expected to exceed \$50,000 during the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

■ 62. Revise § 200.216 to read as follows:

§ 200.216 Prohibition of certain equipment, services, and systems.

(a) *Prohibition of certain telecommunications and video surveillance equipment or services.*

Pursuant to section 889 of Public Law 115–232, the following prohibition applies to certain telecommunications and video surveillance equipment or services.

(1) *General prohibition.* Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(i) Procure or obtain prohibited telecommunications equipment or services;

(ii) Extend or renew a contract to procure or obtain prohibited telecommunications equipment or services; or

(iii) Enter into a contract (or extend or renew a contract) to procure or obtain prohibited telecommunications equipment or services.

(2) *Definition of prohibited telecommunications equipment or services.* As described in section 889 of Public Law 115–232, prohibited telecommunications equipment or services (referred to in the statute as “covered telecommunications equipment or services”) means any of the following:

(i) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(ii) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(iii) Telecommunications or video surveillance services provided by such entities or using such equipment; and

(iv) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country, as defined in section 889 of Public Law 115–232.

(3) *Inclusion in definition of prohibited telecommunications equipment or services.* For the purposes of this section, “covered telecommunications equipment or

services” also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(4) *Certification.* When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on prohibited telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on prohibited telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(5) *Additional information.* For additional information, see section 889 of Public Law 115–232 and § 200.471.

(b) *Prohibition of procurement and operation of prohibited unmanned aircraft systems.* Pursuant to section 1825 of the American Security Drone Act of 2023 (Pub. L. 118–31), on or after December 22, 2025, the following prohibition restricts the extent to which funds provided through a Federal grant or cooperative agreement, or otherwise made available, may be used by a recipient or subrecipient for procurement and operation of Federal Acquisition Security Council (FASC)-prohibited unmanned aircraft systems. This prohibition applies to all Federal awards, regardless of whether the FASC-prohibited unmanned aircraft system to be acquired or operated will process, store, or transmit Federal information.

(1) *Definitions.* The terms “FASC-prohibited unmanned aircraft system” and “unmanned aircraft system” have the definitions provided in 48 CFR 40.201.

(2) *General prohibition.* On or after December 22, 2025, except as provided in paragraphs (b)(3) through (6) of this section, no Federal funds awarded through a grant or cooperative agreement, or otherwise made available, may be used by a recipient or subrecipient:

(i) To procure a FASC-prohibited unmanned aircraft system; or

(ii) In connection with the operation of such a FASC-prohibited unmanned aircraft system.

(3) *Department of Homeland Security, Department of Defense, Department of State, and the Department of Justice exemptions.* (i) The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and the Attorney General are exempt from the restriction under paragraph (b)(2) of this section if the procurement or operation

is required in the national interest of the United States and:

(A) Is for the sole purposes of research, evaluation, training, testing, or analysis for electronic warfare, information warfare operations, cybersecurity, or development of unmanned aircraft system or counter-unmanned aircraft system technology;

(B) Is for the sole purposes of conducting counterterrorism or counterintelligence activities, protective missions, or Federal criminal or national security investigations, including forensic examinations, or for electronic warfare, information warfare operations, cybersecurity, or development of an unmanned aircraft system or counter-unmanned aircraft system technology; or

(C) Is an unmanned aircraft system that, as procured or as modified after procurement but before operational use, can no longer transfer to, or download data from, a covered foreign entity and otherwise poses no national security cybersecurity risks as determined by the exempting official.

(ii) The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and the Attorney General must notify OMB within five calendar days of issuing an award with exemptions to paragraph (b)(3)(i) of this section).

(4) *Department of Transportation exemption.* The Secretary of Transportation is exempt from the restriction under paragraph (b)(2) of this section if the operation or procurement is deemed to support the safe, secure, or efficient operation of the National Airspace System or maintenance of public safety, including activities carried out under the Federal Aviation Administration's Alliance for System Safety of UAS through Research Excellence (ASSURE) Center of Excellence (COE) and any other activity deemed to support the safe, secure, or efficient operation of the National Airspace System or maintenance of public safety, as determined by the Secretary or the Secretary's designee.

(5) *National Oceanic and Atmospheric Administration (NOAA) exemption.* The Administrator of the National Oceanic and Atmospheric Administration (NOAA), in consultation with the Secretary of Homeland Security, is exempt from the restriction under paragraph (b)(2) of this section if the operation or procurement is necessary for the purpose of meeting NOAA's science or management objectives or operational mission.

(6) *Waivers.* The head of a Federal agency may waive the prohibition under

paragraph (b)(2) of this section on a case-by-case basis:

(i) With the approval of the Director of the Office of Management and Budget, after consultation with the Federal Acquisition Security Council; and

(ii) Upon notification to:

(A) The Committee on Homeland Security and Governmental Affairs of the Senate;

(B) The Committee on Oversight and Accountability in the House of Representatives; and

(C) Other appropriate congressional committees of jurisdiction.

■ 63. Add § 200.218 to read as follows:

§ 200.218 Prohibition of using Federal awards to promote or support theories of disparate-impact liability.

(a) *General prohibition.* To the maximum extent permitted by law, Federal agencies must eliminate the use of disparate-impact liability in all contexts relevant to Federal awards. Disparate-impact liability imperils the effectiveness of civil rights laws by mandating, rather than proscribing, discrimination.

(b) *Federal agency and pass-through entity responsibilities.* To the maximum extent permitted by law, to avoid violating the Constitution and Federal civil rights laws, the Federal agency or pass-through entity must:

(1) Ensure that Federal awards are administered in a way that does not promote or support the use of disparate-impact liability. This includes ensuring, unless expressly required by law, that Federal awards are not used in support of disparate-impact studies, disparate-impact litigation, or other related activities; and that Federal award activities based on the assumed risk of disparate-impact liability are not allowed;

(2) Not adopt, issue, or enforce terms and conditions, guidance, or other policies and procedures related to Federal financial assistance that promote, support, or otherwise include the use of disparate-impact liability; and

(3) Review terms and conditions, guidance, and other policies and procedures related to Federal financial assistance to ensure alignment with this paragraph (b).

(c) *Recipient and subrecipient responsibilities.* To the maximum extent permitted by law, to avoid violating the Constitution and Federal civil rights laws, recipients and subrecipients must:

(1) Not adopt, issue, or enforce disparate-impact liability standards in administering programs or activities supported by a Federal award; and

(2) Review their policies and procedures related to Federal financial

assistance to ensure alignment with this paragraph (c).

(d) *Exception for analysis for internal use.* Nothing in this section prohibits a recipient or subrecipient from conducting statistical or demographic analysis for internal program evaluation, research, or other purposes, provided that Federal award funds are not used for conducting such analysis, and the results of such analysis are not used in connection with or applied to activities under the Federal award, such as:

(1) Treating individuals unequally based on federally protected characteristics, such as race or sex, regardless of individual strengths, effort, or achievement; or

(2) Adjusting activities or performance under the Federal award based on theories, or the assumed risk of, disparate-impact liability.

(e) *Definition of disparate-impact liability.* For the purposes of this section, *disparate-impact liability* means a theory under which a facially neutral policy or practice (for example, a merit-based employment policy or practice) gives rise to an automatic or near-insurmountable presumption of the existence of unlawful discrimination on the basis of federally protected characteristics (such as race or sex) where there are any differences or disparities in outcomes (for example, disproportionate effects) among different races, sexes, or similar groups. Under a theory of disparate-impact liability, this presumption would apply even if there is no facially discriminatory policy or practice, there is no discriminatory intent involved, and equal opportunity is provided. Discriminatory intent is irrelevant in a disparate-impact claim. Disparate-impact liability effectively mandates consideration of federally protected characteristics, such as race or sex, and incentivizes racial balancing, contrary to principles of equal treatment and merit-based opportunity.

■ 64. Add § 200.219 to read as follows:

§ 200.219 Prohibition of discriminatory event services.

(a) *Public entities.* Public entities that are a recipient or subrecipient of Federal financial assistance must not discriminate on the basis of the viewpoint, content, or subject matter of speech—including on the basis of political, ideological, or religious affiliation or perspective—in providing services for events, meetings, or other expressive activities. This paragraph (a) includes ensuring that, on the basis of the viewpoint, content, or subject matter of speech, the recipient or subrecipient does not:

(1) Deny, reduce, or otherwise modify services for events, meetings, or other expressive activities in a manner that is inconsistent with the level services or access ordinarily provided for events, meetings, or expressive activities of a similar type and size;

(2) Impose additional, inconsistent, or unreasonable fees, security costs, insurance requirements, related charges, or other administrative burdens; or

(3) Otherwise apply event or facility-use policies in a manner that has the purpose or effect of suppressing lawful expression of speech protected by the First Amendment.

(b) *Non-public entities.* To ensure that Federal funds are not used in a manner inconsistent with the First Amendment, the requirements of paragraph (a) of this section also apply to non-public entities to the extent that the relevant activities are within the scope of activities funded by a Federal award.

(c) *Scope.* (1) The prohibition in paragraph (a) of this section applies to events sponsored, hosted, or permitted by a recipient or subrecipient of Federal financial assistance on property or facilities it owns, leases, or otherwise controls.

(2) For purposes of this section, the term “services” includes security, crowd management, access to facilities, and other logistical or safety support ordinarily provided by the recipient or subrecipient for events of a similar type and size.

■ 65. Add § 200.220 to read as follows:

§ 200.220 Prohibition of using Federal funds for covered foreign collaborations.

(a) *General prohibition.* Except as provided in paragraph (c) of this section, Federal funds may not be obligated or expended by a recipient or subrecipient to support a bilateral or multilateral collaboration, agreement, program, or activity with a covered foreign country or covered foreign entity.

(b) *Scope.* The prohibition in paragraph (a) of this section applies regardless of whether Federal funds are used for direct programmatic activities, research, technical assistance, travel, or indirect costs allocable to such collaborations.

(c) *Exceptions.* A Federal agency may authorize an exception to this section when expressly authorized by Federal statute or the Federal agency head (or designee) determines that the activity does not pose a risk to national security and is in the national interest of the United States.

(d) *Definitions.* For purposes of this section:

(1) *Covered foreign country* means any country designated by statute, Executive order, or other Federal law as:

- (i) A foreign adversary;
- (ii) A country of particular concern; or
- (iii) A country subject to sanctions or restrictions relating to national security, defense, or intelligence activities.

(2) *Covered foreign entity* means:

(i) An entity owned or controlled by, or acting on behalf of, a covered foreign country;

(ii) An entity identified as an “entity of particular concern” on a list maintained by a Federal agency pursuant to statute (including lists maintained under a National Defense Authorization Act or the International Emergency Economic Powers Act); or

(iii) An entity affiliated with the military, intelligence, or security services of a covered foreign country.

■ 66. Revise § 200.300 to read as follows:

§ 200.300 Statutory and national policy requirements.

(a) *In general.* The Federal agency or pass-through entity must manage and administer the Federal award to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution and applicable Federal statutes and regulations—including provisions protecting free speech and religious liberty, and those prohibiting discrimination—and the requirements of this part. Consistent with Federal law, this includes managing and administering the Federal award to ensure that no person otherwise eligible will be unlawfully excluded from participation in, unlawfully denied the benefits of, or otherwise subjected to unlawful discrimination in the administration of Federal programs, activities, projects, assistance, and services. The Federal agency or pass-through entity must communicate to a recipient or subrecipient all relevant requirements, including those contained in general appropriations provisions, and incorporate them directly or by reference in the terms and conditions of the Federal award and all subawards.

(b) *Limitations on authorized use of Federal award funds.* In administering Federal awards, to the maximum extent permitted by law, the Federal agency or pass-through entity must ensure that Federal awards and subawards are not used to fund, promote, encourage, subsidize, or facilitate:

- (1) “Diversity, equity, and inclusion” (DEI) or “diversity, equity, inclusion, and accessibility” (DEIA) policies, principles, or practices that violate any applicable Federal anti-discrimination

laws. This includes racial preferences or other forms of racial discrimination used by the recipient or subrecipient that violate any applicable Federal anti-discrimination laws, including activities where race or intentional proxies for race will be used as a selection criterion for employment or program participation. See also § 200.218;

(2) Gender ideology as defined in Executive Order 14168. Gender ideology includes theories or ideologies that deny the biological reality of sex or the sex binary in humans, or endorse or advocate for the notion that sex is a chosen or mutable characteristic; or

(3) The so-called “transition” of a child under 19 years of age from one sex to another, including the chemical and surgical mutilation of children. The term “chemical and surgical mutilation” has the meaning provided in Executive Order 14187.

(c) *Non-discrimination against faith-based organizations.* Federal agencies and pass-through entities may not discriminate against or in favor of an applicant on the basis of the organization’s religious character, affiliation, exercise, or lack thereof, nor on the basis of conduct that would not be considered ground to favor or disfavor a similarly situated secular organization. Faith-based organizations are eligible to apply for Federal financial assistance on the same basis as any other eligible organization. Applicants that meet all eligibility requirements may be considered for a Federal award under a notice of funding opportunity.

■ 67. In § 200.303, revise paragraphs (a) and (e) and add paragraphs (f) and (g) to read as follows:

§ 200.303 Internal controls.

* * * * *

(a) Establish, document, and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient or subrecipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

* * * * *

(e) Take reasonable cybersecurity and other measures to safeguard information including personally identifiable information (PII), confidential business information, and other types of information subject to protections against disclosure under applicable law. This also includes information the Federal agency or pass-through entity designates as sensitive or other information the recipient or subrecipient considers sensitive and is consistent with applicable Federal,

State, local, and tribal laws regarding privacy and responsibility over confidentiality.

(f) Participate in the Department of Homeland Security's E-verify program to confirm the employment eligibility of all employees and contractors hired in or performing work in the United States under a Federal award.

(1) Recipients and subrecipients must comply with all requirements of the E-verify program and applicable Federal law.

(2) If a recipient or subrecipient receives a Final Nonconfirmation (FNC) notice through E-verify, the recipient or subrecipient must submit this information to the Federal agency or pass-through entity. The recipient or subrecipient must also provide the Federal agency or pass-through entity with the FNC case verification number and confirm that the recipient or subrecipient has taken appropriate actions consistent with E-Verify program requirements. Failure to provide notice or take appropriate action may result in the termination of the Federal award.

(g) In carrying out the internal control requirements of this section, a non-Federal entity that is a State must, prior to the disbursement of payments made using Federal award funds subject to this part, review available data sources with relevant information to verify the eligibility of payees and prevent improper payments. Such reviews may be conducted through the Department of the Treasury's Do Not Pay (DNP) system, or through an alternative payment screening process that provides protection against improper payments. This requirement is in addition to, and does not replace, any program-specific eligibility verification or payment screening requirements applicable to a Federal award.

■ 68. In § 200.305:

- a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (d), respectively;
- b. Add new paragraph (a) and paragraph (c); and
- c. Revise newly redesignated (d) introductory text.

The additions and revision read as follows:

§ 200.305 Federal payment.

(a) *Treasury Do Not Pay (DNP) System Review and Verification.* Prior to the disbursement of any Federal payment under this part, the Federal agency must review available data sources with relevant information on the eligibility of the recipient included in the Department of the Treasury's Do Not

Pay (DNP) System to verify eligibility and prevent improper payments.

* * * * *

(c) *Payment justifications for recipients and subrecipients other than States.* (1) In coordination with OMB and the Department of the Treasury, each Federal agency must use an information system for payments capable of recording a brief, written justification for each payment request. Federal agencies must require payment justifications as described in this paragraph (c) as soon as information systems with this capability become available.

(2) Payment requests under paragraph (d) of this section from a recipient to the Federal agency or a subrecipient to the pass-through entity must include a brief, written justification regardless of whether the payment is made in advance or to reimburse the recipient or subrecipient. The brief, written justification must include information on the activities or aspects of the Federal award that correspond to the payment request. For example, this may include project milestones, project activities, administrative activities, or other requirements that must be completed under the Federal award.

(d) *Payments for recipients and subrecipients other than States.* For recipients and subrecipients other than States, payment methods must minimize the time elapsing between the transfer of funds from the Federal agency or the pass-through entity and the disbursement of funds by the recipient or subrecipient regardless of whether the payment is made by electronic funds transfer or by other means. See § 200.302(b)(6). Except as noted in this part, the Federal agency must require recipients to use only OMB-approved, Government-wide information collections to request payment.

* * * * *

■ 69. Revise § 200.306 to read as follows:

§ 200.306 Cost sharing.

(a) *Criteria for cost sharing funds.* For all Federal awards, the Federal agency or pass-through entity must accept any cost sharing funds (including cash and third-party in-kind contributions, and also including funds committed by the recipient, subrecipient, or third parties) as part of the recipient's or subrecipient's contributions to a program when the funds:

- (1) Are verifiable in the recipient's or subrecipient's records;
- (2) Are not included as contributions for any other Federal award;

(3) Are necessary and reasonable for achieving the objectives of the Federal award;

(4) Are allowable under subpart E of this part;

(5) Are not paid by the Federal Government under another Federal award, except where the program's Federal authorizing statute specifically provides that Federal funds made available for the program can be applied to cost sharing requirements of other Federal programs;

(6) Are provided for in the approved budget when required by the Federal agency; and

(7) Conform to other applicable provisions of this part.

(b) *Inclusion of unrecovered indirect costs.* Unrecovered indirect costs, including indirect costs on cost sharing, may be included as part of cost sharing with the prior approval of the Federal agency or pass-through entity. Unrecovered indirect costs means the difference between the amount charged to the Federal award and the amount which could have been charged to the Federal award under the recipient's or subrecipient's approved indirect cost rate.

(c) *Valuation for contribution of services.* Values for recipient or subrecipient contributions of services and property must be established in accordance with the cost principles in subpart E of this part. When a Federal agency or pass-through entity authorizes the recipient or subrecipient to donate buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing must be the lesser of paragraph (c)(1) or (2) of this section.

(1) The value of the remaining life of the property recorded in the recipient's or subrecipient's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the Federal agency or pass-through may approve using the current fair market value of the donated property, even if it exceeds the value described in paragraph (c)(1) of this section at the time of donation.

(d) *Volunteer services by third-parties.* Volunteer services furnished by third-party professional and technical personnel, consultants, and other labor may be counted as cost sharing if the service is necessary for the program. Rates for third-party volunteer services must be consistent with those paid for similar work by the recipient or subrecipient. When the required skills are not found in the recipient's or subrecipient's workforce, rates must be

consistent with those paid for similar work in the labor market where the recipient or subrecipient competes for the services involved. In either case, fringe benefits that are allowable, allocable, and reasonable may be included in the valuation.

(e) *Valuation for services of third-party employees.* When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally-negotiated indirect cost rate or, a rate in accordance with § 200.414 provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

(f) *Donated property from third parties.* Donated property from third parties may include items such as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. The assessed value of donated property included as cost sharing must not exceed the property's fair market value at the time of the donation.

(g) *Valuation of donated equipment, buildings, and land.* The method used for determining the value of donated equipment, buildings, and land for which title passes to the recipient or subrecipient may differ according to the following:

(1) If the purpose of the Federal award is to assist the recipient or subrecipient in acquiring equipment, buildings, or land, the aggregate value of the donated property may be claimed as cost sharing.

(2) If the purpose of the Federal award is to support activities that require the use of equipment, buildings, or land, only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed if provided in the terms and conditions of the Federal award. See § 200.420.

(h) *Accounting policies for donated property.* The value of donated property must be determined in accordance with the accounting policies of the recipient or subrecipient with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the recipient or subrecipient as established by an independent appraiser

(for example, certified real property appraiser or General Services Administration representative) and certified by a responsible official of the recipient or subrecipient as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601–4655), except as provided in the implementing regulations at 49 CFR part 24.

(2) The value of donated equipment must not exceed the fair market value at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

(i) *Documentation and support for fair market value.* The fair market value of third-party in-kind contributions must be documented and, to the extent feasible, supported by the same methods used internally by the recipient or subrecipient.

(j) *Voluntary committed cost sharing for research grants.* Voluntary committed cost sharing is not expected under Federal research grants. The Federal agency may not use voluntary committed cost sharing as a factor during the merit review of applications or proposals for Federal research grants unless authorized by Federal statutes or agency regulations and specified in the notice of funding opportunity. Federal agencies are also discouraged from using voluntary committed cost sharing as a factor during the merit review of applications for other Federal financial assistance programs. If voluntary committed cost sharing is used for this purpose for other programs, the notice of funding opportunity must specify how an applicant's proposed cost sharing will be considered. See §§ 200.414 and 200.204 and appendix I to this part.

(k) *Voluntary uncommitted cost sharing for institutions of higher education.* For institutions of higher education (IHE), voluntary uncommitted cost sharing should be treated differently from mandatory or voluntary committed cost sharing. Voluntary uncommitted cost sharing should not be included in the organized research base for computing the indirect cost rate or reflected in any allocation of indirect costs. Voluntary uncommitted cost sharing includes faculty-donated additional time above that agreed to as part of the award.

■ 70. In § 200.307, revise paragraph (a) to read as follows:

§ 200.307 Program income.

(a) *In general.* The recipient or subrecipient is encouraged to earn income to defray program costs when appropriate. Program income must be used for the original purpose of the Federal award. Program income earned during the period of performance may only be used for costs incurred during the period of performance or allowable closeout costs. See § 200.472(b). Program income must be expended prior to requesting additional Federal funds. Program income exceeding amounts specified in the Federal award may be added to or deducted from the total allowable costs in accordance with the terms and conditions of the Federal award.

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■ 71. In § 200.308, revise paragraph (e) to read as follows:

§ 200.308 Revision of budget and program plans.

* * * * *

(e) *Limitation on other prior approval requirements.* Unless specified in this part, the Federal agency must not impose additional prior approval requirements without OMB approval. See also §§ 200.102 and 200.407.

* * * * *

■ 72. In § 200.313, revise paragraph (b) to read as follows:

§ 200.313 Equipment.

* * * * *

(b) *In general.* A State must use, manage and dispose of equipment acquired under a Federal award in accordance with State laws and procedures. Indian Tribes must use, manage, and dispose of equipment acquired under a Federal award in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes must follow the regulation in this section. Other recipients and subrecipients, including subrecipients of a State or Indian Tribe, must follow paragraphs (c) through (e) of this section.

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■ 73. In § 200.318, revise paragraph (l) to read as follows:

§ 200.318 General procurement standards.

* * * * *

(l) *Additional employment practices.*

(1) The procurement standards in this subpart do not prohibit recipients or subrecipients from:

(i) Communicating a requirement that individuals hired or employed under the Federal award must be authorized to work in the United States under applicable Federal law; or

(ii) Using Project Labor Agreements (PLAs) or other types of pre-hire collective bargaining agreements if the use of such agreements will advance the interest of the Federal Government associated with the applicable Federal financial assistance program, including consideration of practicability and cost effectiveness.

(2) Federal agencies may allow recipients to use such practices if consistent with the U.S. Constitution, applicable Federal statutes and regulations, the objectives and purposes of the applicable Federal financial assistance program, and other requirements of this part. Recipients and subrecipients are also responsible for ensuring consistency with applicable law. Employment practices should be consistent with the foundational principles of recognizing merit and the ability of employees to fulfill the requirements of the contract.

■ 74. In § 200.320, revise the introductory text to read as follows:

§ 200.320 Procurement methods.

There are three types of procurement methods described in this section: informal procurement methods (for micro-purchases and simplified acquisitions); formal procurement methods (through sealed bids or proposals); and noncompetitive procurement methods. For any of these methods, the recipient or subrecipient must maintain and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319. Recipients are strongly discouraged from issuing cost-reimbursement contracts. When using cost-reimbursement contracts, the recipient must notify the awarding Federal agency of its use of this mechanism and maintain a written justification in its records. A Federal agency may, at its discretion, require prior approval of cost-reimbursement contracts in the terms and conditions of the Federal award, which may include review of the recipient's written justification.

* * * * *
■ 75. Revise § 200.321 to read as follows:

§ 200.321 Contracting with small businesses.

When possible, the recipient or subrecipient should ensure that small businesses, including subcategories of small businesses enumerated in Federal statute, are considered when issuing contracts under Federal financial assistance awards.

■ 76. Revise § 200.322 to read as follows:

§ 200.322 Domestic preferences for procurements.

(a) To the greatest extent practicable and consistent with law, Federal agencies must include terms and conditions in Federal awards to maximize the use of goods, products, and materials produced in the United States. If included in a Federal award, these requirements must also be included in all subawards, contracts, and purchase orders under Federal awards.

(b) Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.

■ 77. Revise § 200.323 to read as follows:

§ 200.323 Procurement of recovered materials.

A recipient or subrecipient that is a State agency, an agency of a political subdivision of a State, or a contractor to such entity, must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

■ 78. In § 200.324, revise paragraph (a) to read as follows:

§ 200.324 Contract cost and price.

(a) The recipient or subrecipient must perform a cost or price analysis for every procurement transaction, including contract modifications, in excess of the simplified acquisition threshold. The method and degree of analysis conducted depend on the facts surrounding the particular procurement transaction. However, as a starting point, the recipient or subrecipient must make independent estimates before receiving bids or proposals.

* * * * *

■ 79. In § 200.329:

■ a. Revise paragraphs (b) and (e) through (g); and

■ b. Add paragraphs (h) and (i).

The revisions and additions read as follows:

§ 200.329 Monitoring and reporting program performance.

* * * * *

(b) *Reporting program performance.*

The Federal agency must use OMB-approved common information collections (for example, Research Performance Progress Reports) when requesting performance reporting information. The Federal agency or pass-through entity may not collect performance reports more frequently than quarterly unless a specific condition has been implemented in accordance with § 200.208. To the extent practicable, the Federal agency or pass-through entity should align the due dates of performance reports and financial reports. When reporting program performance, the recipient or subrecipient must relate financial data and project or program accomplishments to the performance goals and objectives of the Federal award. Consistent with appendix A to 2 CFR part 170, the recipient must confirm that it has reported any subawards issued during the reporting period on *SAM.gov*. Also, the recipient or subrecipient must provide cost information to demonstrate cost-effective practices (for example, through unit cost data) when required by the terms and conditions of the Federal award. In some instances (for example, discretionary research awards), this may be limited to the requirement to submit technical performance reports. Reporting requirements must clearly indicate a standard against which the recipient's or subrecipient's performance can be measured. Reporting requirements should not solicit information from the recipient or subrecipient that is not necessary for the effective monitoring or evaluation of the Federal award. Federal agencies should consult monitoring framework documents such as the agency's Evaluation Plan to make that determination. As noted in OMB Circular A-11, Part 6, Section 280, measures of customer experience are of co-equal importance as traditional measures of financial and operational performance.

* * * * *

(e) *Scientific research performance reports.* When submitting a performance report for scientific research, the recipient must identify and include the categorization provided in the terms and conditions of the award. See § 200.202(g).

(f) *Significant developments.* When a significant development that could impact the Federal award occurs between performance reporting due dates, the recipient or subrecipient must notify the Federal agency or pass-through entity. Significant developments include events that enable meeting milestones and objectives sooner or at less cost than anticipated or that produce different beneficial results than originally planned. Significant developments also include problems, delays, or adverse conditions which will impact the recipient's or subrecipient's ability to meet milestones or the objectives of the Federal award. When significant developments occur that negatively impact the Federal award, the recipient or subrecipient must include information on their plan for corrective action and any assistance needed to resolve the situation.

(g) *Site visits.* The Federal agency or pass-through entity may conduct in-person or virtual site visits as warranted.

(h) *Reviewing subrecipient reporting in SAM.gov.* The Federal agency is responsible for providing oversight to ensure that recipients comply with their requirement to report subawards on SAM.gov and taking corrective action if recipients are not in compliance. See also § 200.332.

(i) *Performance report requirement waiver.* The Federal agency may waive any performance report that is not necessary to ensure the goals and objectives of the Federal award are being achieved. The Federal agency must justify this waiver, maintain the justification in the Federal agency's records, and incorporate in the agency's risk assessment the decision to waive the requirement.

■ 80. In § 200.331, add paragraph (c) to read as follows:

§ 200.331 Subrecipient and contractor determinations.

* * * * *

(c) *Transfers to related entities.* Pass-through entities may not circumvent the requirements of this section by treating payments of Federal funds to affiliates, subsidiaries, or other related entities that are separate legal persons as internal transfers not requiring a determination under this section. Such transfers of Federal funds must be evaluated under this section and treated as either subawards or contracts, as appropriate. For example, if a related entity receives payment to perform activities under the Federal award, such as carrying out a portion of the Federal award or providing goods and services,

a determination is required. See also § 200.332(h).

■ 81. In § 200.332:

■ a. Revise paragraphs (g) through (i); and

■ b. Add paragraphs (j) through (l).

The revisions and additions read as follows:

§ 200.332 Requirements for pass-through entities.

* * * * *

(g) Comply with applicable requirements in 2 CFR part 170 to report subawards on SAM.gov no later than the end of the month following the month in which the subaward was issued.

(h) Make subrecipient or contractor determinations under § 200.331 for all downstream entities receiving payments from the pass-through entity, including affiliates, subsidiaries, or other related organizations. Internal organizational affiliations do not exempt pass-through entities from subaward or contract classification and related compliance and reporting requirements.

(i) Ensure that each subrecipient is in compliance with the terms and conditions of the subaward and does not take actions that could significantly damage the reputation of the pass-through entity, the Federal agency making the award, or the Federal Government. If a pass-through entity determines that a subrecipient has taken such actions, it must consult with the Federal agency to determine whether the subaward should be terminated under § 200.340. If the Federal agency determines that such significant reputational harm has occurred, it may either direct the pass-through entity to terminate the subaward or terminate the Federal award to the pass-through entity.

(j) Verify that a subrecipient is audited as required by subpart F of this part.

(k) Consider whether the results of a subrecipient's audit, site visits, or other monitoring necessitate adjustments to the pass-through entity's records.

(l) Consider taking enforcement action against noncompliant subrecipients as described in § 200.339 and in program regulations.

■ 82. Revise § 200.333 to read as follows:

§ 200.333 Fixed amount subawards.

Fixed amount subawards are not permitted.

■ 83. In § 200.334, revise the introductory text to read as follows:

§ 200.334 Record retention requirements.

The recipient and subrecipient must retain all Federal award records for

three years from the date of submission of their final financial report. For awards that are renewed quarterly or annually, the recipient and subrecipient must retain records for three years from the date of submission of their quarterly or annual financial report, respectively. Records to be retained include, but are not limited to, financial records, supporting documentation, and statistical records. Federal agencies or pass-through entities may not impose any other record retention requirements except for the following:

* * * * *

■ 84. Revise § 200.336 to read as follows:

§ 200.336 Methods for collection, transmission, and storage of information.

When practicable, the Federal agency or pass-through entity and the recipient or subrecipient must collect, transmit, and store Federal award information in open and machine-readable formats. A machine-readable format is a format in a standard computer language (not English text) that can be read automatically by a computer system. Upon request, the Federal agency or pass-through entity must always provide paper versions of Federal award information to and from the recipient or subrecipient. The Federal agency or pass-through entity must not require additional copies of Federal award information submitted in paper versions. The recipient or subrecipient is not required to create and retain paper copies when original records are electronic and cannot be altered. In addition, the recipient or subrecipient may substitute electronic versions of original paper records through duplication or other forms of electronic conversion, provided that the procedures are subject to periodic quality control reviews. Quality control reviews must ensure that electronic conversion procedures provide safeguards against the alteration of records and assurance that records remain in a format that is readable by a computer system. Recipients and subrecipients are strongly encouraged to utilize domestic storage capabilities for electronic records.

■ 85. Revise § 200.338 to read as follows:

§ 200.338 Restrictions on public access to records.

Federal agencies may not place restrictions on the recipient or subrecipient that limit public access to the records of the recipient or subrecipient pertaining to a Federal award, except for personally identifiable information (PII), confidential business

information, or other sensitive information subject to protections against disclosure under applicable law. Federal agencies may only place such restrictions when the Federal agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal agency. The Freedom of Information Act does not apply to records that remain under the recipient's or subrecipient's control except as required by § 200.315. Unless required by Federal, State, local, or tribal law, recipients and subrecipients are not required to permit public access to their records. The recipient's or subrecipient's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

■ 86. Revise § 200.339 to read as follows:

§ 200.339 Remedies for noncompliance.

(a) *Remedies for noncompliance.* The Federal agency or pass-through entity may implement specific conditions if the recipient or subrecipient fails to comply with the U.S. Constitution, Federal statutes, regulations, or terms and conditions of the Federal award. See § 200.208 for additional information on specific conditions. When the Federal agency or pass-through entity determines that noncompliance cannot be remedied by imposing specific conditions, the Federal agency or pass-through entity may take one or more of the following actions:

- (1) Temporarily withhold payments until the recipient or subrecipient takes corrective action.
- (2) Disallow costs for all or part of the activity associated with the noncompliance of the recipient or subrecipient.
- (3) Suspend or terminate the Federal award in part or in its entirety.
- (4) Initiate suspension or debarment proceedings as authorized in 2 CFR part 180 and the Federal agency's regulations, or for pass-through entities, recommend suspension or debarment proceedings be initiated by the Federal agency.
- (5) Withhold further Federal funds (new awards or continuation funding) for the project or program.
- (6) Pursue other legally available remedies.

(b) *Private causes of action.* If applicable and consistent with law and regulation, a Federal agency, may, at its discretion, cooperate with individuals or organizations in their pursuit of

private causes of action and civil remedies based on the failure of a recipient or subrecipient to comply with the U.S. Constitution, Federal statutes, regulations, or the terms and conditions of a Federal award. Consistent with § 200.318(k), this generally would not include cases related to the settlement of contractual or administrative issues arising out of a recipient's or subrecipient's procurement transactions, except as necessary to comply with law or if the matter is primarily a Federal concern. A Federal agency should only cooperate with a private cause of action if it determines that such cooperation is in the interest of the United States.

■ 87. Revise § 200.340 to read as follows:

§ 200.340 Termination and suspension.

(a) *Termination provisions.* The Federal award may be terminated in part or its entirety as follows:

- (1) *For noncompliance by the recipient or subrecipient.* The Federal agency or pass-through entity may terminate a Federal award in part or its entirety if the recipient or subrecipient fails to comply with the terms and conditions of the Federal award, including a failure of the recipient to report subawards on *SAM.gov* pursuant to the award term required by 2 CFR part 170. See also §§ 200.341 and 200.342;
- (2) *At the discretion of the Federal agency or pass-through entity.* The Federal agency or pass-through entity, to the extent permitted by law, may terminate a Federal award in part or its entirety if the Federal agency or pass-through entity determines that a termination is in the interest of the Federal agency or pass-through entity, including if a Federal award does not effectuate program goals, Federal agency priorities, or the national interest as they exist at the time of the termination. See also § 200.341;

(3) *By mutual agreement of the parties.* The Federal agency or pass-through entity may terminate a Federal award in part or its entirety with the consent of the recipient or subrecipient, in which case the two parties must agree upon the termination conditions. These conditions include the effective date of the termination and, in the case of partial termination, the portion to be terminated; or

(4) *Upon notification by the recipient or subrecipient.* The recipient or subrecipient may terminate a Federal award in part or its entirety upon sending the Federal agency or pass-through entity a written notification of the reasons for such termination, the

effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal agency or pass-through entity determines that the remaining portion of the Federal award will not accomplish the purposes for which the Federal award was made, the Federal agency or pass-through entity may terminate the Federal award in its entirety; or

(5) *Pursuant to additional terms and conditions.* The Federal agency or pass-through entity, to the extent permitted by law, may terminate a Federal award in part or its entirety pursuant to any additional termination provisions included in the terms and conditions of the Federal award.

(b) *Requirements for termination provisions—(1) General requirements.* The Federal agency or pass-through entity must clearly and unambiguously specify all termination provisions in the terms and conditions of the Federal award. To the extent permitted by law, and except as provided in paragraph (b)(2) of this section, the Federal agency and pass-through entity must ensure that all Federal awards allow termination for the reasons described in paragraphs (a)(1) through (4) of this section. For example, the Federal agency or pass-through entity may include a termination provision incorporating this section of the regulation by reference or including all of the reasons for termination in paragraphs (a)(1) through (4). In accordance with paragraph (a)(5) of this section, to the extent authorized by law, the Federal agency or pass-through entity may also include additional termination provisions not specified in this section. See also § 200.211(c)(1)(v).

(2) *Exceptions.* Paragraph (a)(2) of this section does not apply to any Federal award in which inclusion of such a discretionary termination provision would conflict with a Federal statute. See §§ 200.101(d) and 200.102(b) regarding statutory conflicts and exceptions. The discretionary termination provision is generally applicable to discretionary awards, but not to Federal awards made under programs where legislation establishes an entitlement to the funds on the part of the recipient, such as block grants, those awarded based on a statutory formula, or disaster recovery grants. Consistent with Executive Order 14332, paragraph (a)(2) also does not apply to agreements entered into in furtherance of international trade agreements or those awarded by the Department of Commerce under title XCIX of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283), the CHIPS

Act of 2022 (Pub. L. 117–167), or division F of the Infrastructure Investment and Jobs Act (Pub. L. 117–58). If questions arise regarding applicability of paragraph (a)(2) to specific Federal programs or types of Federal awards, Federal agencies are strongly encouraged to consult with OMB. Federal agencies must seek approval from OMB prior to allowing any class exceptions for paragraph (a)(2) related to a Federal program or type of Federal award not set forth in this paragraph (b)(2).

(c) *Reporting requirements related to terminations for noncompliance.* When the Federal agency terminates the Federal award prior to the end of the period of performance due to the recipient's material failure to comply with the terms and conditions of the Federal award, the Federal agency must report the termination in *SAM.gov*. A Federal agency must use the Contractor Performance Assessment Reporting System (CPARS) to enter information in *SAM.gov*.

(1) The information required under this paragraph (c) is not to be reported in *SAM.gov* until the recipient has either:

(i) Exhausted its opportunities to object or challenge the decision (see § 200.342); or

(ii) Has not, within 30 calendar days after being notified of the termination, informed the Federal agency that it intends to appeal the decision to terminate.

(2) If a Federal agency, after entering information about a termination in *SAM.gov*, subsequently:

(i) Learns that any of that information is erroneous, the Federal agency must correct the information in the system within three business days; and

(ii) Obtains an update to that information that could be helpful to other Federal agencies, the Federal agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.

(3) The Federal agency must not post any information that will be made publicly available in the non-public segment of *SAM.gov* that is covered by a disclosure exemption under the Freedom of Information Act (FOIA). When the recipient asserts within seven calendar days to the Federal agency which posted the information that a disclosure exemption under FOIA covers some of the information made publicly available, the Federal agency that posted the information must remove the posting within seven calendar days of receiving the assertion. Before reposting the releasable information, the Federal agency must

resolve the issue in accordance with the agency's FOIA procedures.

(d) *Closeout requirements following termination.* When the Federal award is terminated in part or its entirety, the Federal agency or pass-through entity and recipient or subrecipient remain responsible for compliance with the closeout requirements in §§ 200.344 and 200.345.

(e) *Temporary suspension*—(1) *In general.* The Federal agency or pass-through entity, to the extent permitted by law, may at any time issue a written order temporarily suspending a Federal award in part or its entirety if the Federal agency or pass-through entity determines that a suspension is in the interest of the Federal agency or pass-through entity. A suspension order under this provision must not exceed a period of 90 days unless the parties mutually agree to an extended period. The period of suspension will begin to run after a written order of suspension is delivered to the recipient or subrecipient. The suspension order must:

(i) Direct the recipient or subrecipient to temporarily stop all or part of the activities under the Federal award;

(ii) Specify the effective date, scope, and expected duration of the suspension, which may not exceed a period of 90 days unless extended by mutual agreement; and

(iii) Consistent with paragraph (e)(2) of this section, direct the recipient or subrecipient to take all reasonable steps to minimize the incurrence of costs allocable to activities covered by the order during the suspension period.

(2) *Activities during suspension period.* During the suspension period, the recipient or subrecipient must take reasonable steps to minimize the incurrence of costs allocable to activities covered by the order. See § 200.343. The Federal agency or pass-through entity may determine to cancel the suspension order before its expiration if warranted under the circumstances. The Federal agency may also proceed to terminate the Federal award in whole or in part under paragraph (a) of this section.

(3) *Resumption of activities following suspension period.* If the suspension order is cancelled, or after the period covered by the order or any extension of the order expires, the Federal agency or pass-through entity should consider and seek to resolve any budgetary or schedule impacts resulting from the order. Consistent with law, and as appropriate and warranted under the circumstances, the Federal agency should consider making adjustments to the project schedule, project budget, or both. The recipient or subrecipient must

promptly resume activities under the Federal award at the conclusion of the suspension period.

(4) *Inclusion of suspension provision in Federal award.* The Federal agency or pass-through entity must clearly and unambiguously include the suspension provision described in this section in the terms and conditions of the Federal award. The suspension provision described in this section does not apply to any Federal award in which inclusion of such a suspension provision would conflict with a Federal statute. See §§ 200.101(d) and 200.102(b) regarding statutory conflicts and exceptions. The suspension provision is generally applicable to discretionary awards, but not to Federal awards made under programs where legislation establishes an entitlement to the funds on the part of the recipient, such as block grants, those awarded based on a statutory formula, or disaster recovery grants. If questions arise regarding applicability of the suspension provision to specific Federal programs or types of Federal awards, Federal agencies are strongly encouraged to consult with OMB.

(5) *Suspension for non-compliance.* The suspension provision in this section does not limit the authority in § 200.339 related to a suspension for noncompliance. Consistent with law, the suspension authority in § 200.339 may apply more broadly, including under Federal programs in which the Federal agency or pass-through entity finds that the suspension provision in this section does not apply. Federal agencies must follow procedures described in § 200.342 upon initiating a remedy for noncompliance.

■ 88. Revise § 200.341 to read as follows:

§ 200.341 Notification of termination requirement.

(a) *In general.* The Federal agency or pass-through entity must provide written notice of termination to the recipient or subrecipient. The written notice of termination should include the reasons for termination, the effective date, and the portion of the Federal award to be terminated, if applicable.

(b) *Notifications of termination for noncompliance.* If the Federal award is terminated for the recipient's material failure to comply with a Federal award, for the portion of the Federal award to be terminated, which may encompass up to the entirety of the Federal award, the notification must instruct the recipient or subrecipient to stop work, make no additional financial obligations, and, to the extent authorized by law, terminate all subawards and contracts related to the

terminated portion of the Federal award. Consistent with § 200.342, the notification for a termination for noncompliance must also provide the recipient with an opportunity to object and provide information challenging the action. The notification must also state the following:

(1) The termination decision will be reported in *SAM.gov*;

(2) The information will be available in *SAM.gov* for five years from the date of the termination and then archived;

(3) Federal agencies that consider making a Federal award to the recipient during the five year period must consider this information in judging whether the recipient is qualified to receive the Federal award when the Federal share of the Federal award is expected to exceed the simplified acquisition threshold over the period of performance; and

(4) The recipient may comment on any information in *SAM.gov* about the recipient for future consideration by Federal agencies. The recipient may submit comments in *SAM.gov*.

(5) Federal agencies should consider the recipient's comments when determining whether the recipient is qualified for a Federal award.

(c) *Notifications of discretionary termination.* In the case of a discretionary termination under § 200.340(a)(2), the notice must provide:

(1) A brief summary of the reason or reasons for finding that termination is in the interest of the Federal agency or pass-through entity. The reason or reasons may apply to an individual award or class of awards. The Federal agency or pass-through entity is not required to provide a detailed or exhaustive analysis;

(2) For the portion of the Federal award to be terminated, which may encompass up to the entirety of the Federal award, instructions to the recipient or subrecipient to stop work, make no additional financial obligations, and, to the extent authorized by law, terminate all subawards and contracts related to the terminated portion of the Federal award; and

(3) An opportunity for the recipient or subrecipient to submit a written statement of termination costs, which shall constitute a complete and accurate statement of all costs, financial obligations, expenditures, claims, and other commitments the recipient or subrecipient believes are relevant to the termination. Under this paragraph (c)(3), *termination costs* means those costs that are reasonably related to winding down activities undertaken as a result of the Federal award. See also § 200.472(a) for

cost principles applicable to termination and standard closeout costs. The notice from the Federal agency or pass-through entity must provide a reasonable time for submission of the written statement (such as 30 or 60 days, as appropriate) and explain that the Federal agency or pass-through entity will consider the written statement in reaching a final decision regarding allowable costs under §§ 200.343 and 200.344.

(4) The written statement of termination costs must be sufficiently detailed to permit the Federal agency or pass-through entity to evaluate the allowability, allocability, and reasonableness of the claimed costs. The written statement must represent the recipient's or subrecipient's complete presentation of termination-related costs and claims, subject to review and resolution under §§ 200.343 and 200.344. The statement of termination costs from the recipient or subrecipient must include:

(i) A written statement regarding any termination costs it believes are relevant, including costs, financial obligations, expenditures, claims, and other commitments the recipient or subrecipient made in reasonable expectation of continued funding under the Federal award; the financial or programmatic impact of terminating those commitments; and any steps the recipient or subrecipient has taken, or proposes to take, to avoid, minimize, mitigate, or otherwise reduce those impacts;

(ii) Documentation in support of any termination costs the recipient or subrecipient believes are relevant; and

(iii) Information regarding whether commitments are cancelable, the terms for cancelling those commitments, and any penalties or costs of cancellation. If commitments are not cancellable, the written statement should explain why the commitments were not structured to allow cancellation, and whether they could have been.

(iv) A certification, signed by an authorized official of the recipient or subrecipient, stating that the written statement of termination costs is true, complete, and accurate to the best of the official's knowledge and belief, and that the costs claimed:

(A) Are based on records maintained in the ordinary course of business;

(B) Reflect the recipient's or subrecipient's good-faith assessment of costs reasonably incurred or committed as a result of the Federal award; and

(C) Do not include costs that are unallowable, speculative, or unrelated to the termination.

(d) *Reporting for all terminations.*

Upon termination of the Federal award,

the Federal agency must provide the information required by the Federal Funding Accountability and Transparency Act (FFATA) to *USAspending.gov*. In addition, the Federal agency must update or notify any other relevant Government-wide systems or entities of any indications of poor performance as required by 41 U.S.C. 2313 and 31 U.S.C. 3354.

■ 89. Revise § 200.342 to read as follows:

§ 200.342 Opportunities to object, hearings, and appeals.

The Federal agency must maintain written procedures for processing objections, hearings, and appeals related to remedies for noncompliance. Upon initiating a remedy for noncompliance (for example, disallowed costs, a corrective action plan, or termination for noncompliance), the Federal agency must provide the recipient with an opportunity to object and provide information challenging the action. The Federal agency or pass-through entity must comply with any requirements for hearings, appeals, or other administrative proceedings to which the recipient or subrecipient is entitled under any statute or regulation applicable to the action involved. The Federal agency is not required to allow for objections, hearings, and appeals related to any reasons for termination except termination for noncompliance.

■ 90. Revise § 200.343 to read as follows:

§ 200.343 Effects of suspension and termination.

(a) *In general.* Costs to the recipient or subrecipient resulting from financial obligations incurred by the recipient or subrecipient during a suspension or after the termination of a Federal award are not allowable unless the Federal agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

(1) The costs result from financial obligations which were properly incurred by the recipient or subrecipient before the effective date of suspension or termination, and not in anticipation of it; and

(2) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect, provided that the recipient or subrecipient takes all reasonable steps to cancel, mitigate, or otherwise reduce such financial obligations and provides documentation

of those efforts to the Federal agency upon request.

(b) *Costs resulting from discretionary terminations.* (1) This section does not expressly require the Federal agency to authorize any additional costs to the recipient or subrecipient resulting from financial obligations incurred after the termination of a Federal award. However, as appropriate and consistent with law, upon making a discretionary termination under § 200.340(a)(2), the Federal agency may consider allowing the Federal share of necessary and reasonable costs resulting from financial obligations incurred by the recipient or subrecipient after the termination of a Federal award based on information provided by the recipient in response to the notice under § 200.341(c).

(2) The decision regarding whether to allow additional costs under paragraph (b)(1) of this section is left to the reasonable discretion of the Federal agency. The Federal agency may weigh payment of additional termination costs against competing policy concerns such as responsible stewardship of Federal funds, program goals, Federal agency priorities, or the national interest.

■ 91. In § 200.400, revise paragraph (g) to read as follows:

§ 200.400 Policy guide.

* * * * *

(g) The recipient or subrecipient must not earn or keep any profit resulting from Federal financial assistance unless explicitly authorized by the terms and conditions of the Federal award. See also § 200.307.

■ 92. In § 200.401:

- a. Remove paragraph (a)(3);
- b. Redesignate paragraphs (a)(4) through (6) as paragraphs (a)(3) through (5), respectively; and
- c. Revise paragraph (c).

The revision reads as follows:

§ 200.401 Application.

* * * * *

(c) *Exemptions.* Some nonprofit organizations, because of their size and nature of operations, can be considered to be similar to for-profit organizations in terms of the applicability of cost principles. These nonprofit organizations must operate under Federal cost principles that apply to for-profit organizations located at 48 CFR 31.2. This exemption only applies to nonprofit organizations that receive 90 percent or more of their Federal funding in the form of contracts or operate a Federally Funded Research and Development Center (FFRDC). Federal agencies and pass-through entities may not allow any exceptions to this policy under § 200.102(c) unless expressly

required by Federal statute or approved by the cognizant agency for indirect costs in coordination with OMB in extraordinary circumstances.

■ 93. Revise § 200.402 to read as follows:

§ 200.402 Composition of costs.

The total cost of a Federal award is the sum of the allowable direct and indirect costs minus any applicable credits.

■ 94. In § 200.403, revise paragraph (g) to read as follows:

§ 200.403 Factors affecting allowability of costs.

* * * * *

(g) Be adequately documented. See §§ 200.300 through 200.309 and 200.334 through 200.338.

* * * * *

■ 95. In § 200.405, revise paragraph (d) to read as follows:

§ 200.405 Allocable costs.

* * * * *

(d) *Direct cost allocation principles.* If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. However, when those proportions cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefited projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved, when no longer needed for the purpose for which it was originally required. See also §§ 200.310 through 200.316 and 200.439.

* * * * *

■ 96. In § 200.407:

- a. Remove paragraph (d);
- b. Redesignate paragraphs (e) through (l) as paragraphs (d) through (k), respectively; and
- c. Insert a new paragraph (l).

The revision reads as follows:

§ 200.407 Prior written approval (prior approval).

* * * * *

(l) Section 200.454 Memberships, subscriptions, and professional activity costs;

* * * * *

■ 97. Revise § 200.421 to read as follows:

§ 200.421 Advertising and public relations.

(a) *In general.* Except as provided in paragraph (b) of this section, advertising and public relations costs (including those related to magazines, newspapers, radio and television, direct mail, exhibits, and electronic or computer transmittals) are unallowable under Federal awards and may not be charged directly, indirectly, or through another cost allocation methodology.

(b) *Exceptions.* The only exceptions to paragraph (a) of this section are for advertising and public relation costs specifically required by Federal statute or advertising costs which are solely for:

(1) The procurement of goods and services for the performance of a Federal award;

(2) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when the recipient or subrecipient is reimbursed for disposal costs at a predetermined amount; or

(3) Program advertising and outreach (for example, recruiting project participants) and other specific purposes necessary to meet the Federal award requirements.

■ 98. Revise § 200.429 to read as follows:

§ 200.429 Commencement and convocation costs.

Costs incurred for commencements and convocations are unallowable.

■ 99. In § 200.430, revise paragraph (h) and paragraph (i) introductory text to read as follows:

§ 200.430 Compensation—personal services.

* * * * *

(h) *Nonprofit organizations.* This paragraph (h) provides policy applicable only to nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, a determination must be made that the compensation is reasonable for the actual personal services rendered rather than a distribution of earnings above actual costs. Compensation may include director's and executive committee member's fees, incentive awards, off-site or incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(i) *Institutions of Higher Education (IHEs).* This paragraph (h) provides policy only applicable to IHEs.

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■ 100. In § 200.432:

- a. Designate the undesignated paragraph as paragraph (a); and
- b. Add paragraph (b).

The addition reads as follows:

§ 200.432 Conferences.

* * * * *

(b) The costs for attending conferences are allowable only if participation in the conference is expressly approved by the Federal agency and included in the terms and conditions of the Federal award. See § 200.475.

■ 101. In § 200.438, revise paragraph (b) to read as follows:

§ 200.438 Entertainment and prizes.

* * * * *

(b) *Prizes.* Costs of prizes or challenges are allowable if they have a specific and direct programmatic purpose and are included in the Federal award.

■ 102. In § 200.442, revise paragraphs (b) and (c) to read as follows:

§ 200.442 Fundraising and investment management costs.

* * * * *

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds, which include Federal participation allowed by this part. Such costs are only allowable with the prior written approval of the Federal agency.

(c) Costs related to the physical custody and control of monies and securities are allowable. Such costs are only allowable with the prior written approval of the Federal agency.

* * * * *

■ 103. Revise § 200.444 to read as follows:

§ 200.444 General costs of government.

(a) For States, local governments, and Indian Tribes, the general costs of government are unallowable except as provided in § 200.475.

(b) General costs of government are those costs related to the general activities of the executive, legislative, or judicial branches of government, including general activities related to public safety, public information, citizenship, enrollment, or taxation that are not related to a specific Federal award. Unallowable costs may include:

(1) Salaries and expenses of the Office of the Governor of a State or the chief executive of a local government or the chief executive of an Indian Tribe;

(2) Salaries and other expenses of a State legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, or school board, whether incurred for

purposes of legislation or executive direction;

(3) Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation. However, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435; and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided as a direct cost under a program statute or regulation.

■ 104. In § 200.450:

■ a. Revise paragraph (a);

■ b. Redesignate paragraphs (c)(1)(iii) and (iv) as paragraphs (c)(1)(vi) and (vii), respectively; and

■ c. Add new paragraphs (c)(1)(iii) and (iv) and paragraph (c)(1)(v).

The revision and additions read as follows:

§ 200.450 Lobbying.

(a) *Lobbying costs associated with obtaining Federal assistance awards.*

The costs of certain influencing activities associated with obtaining grants, cooperative agreements, contracts, or loans are unallowable. Lobbying with respect to certain grants, cooperative agreements, contracts, and loans is governed by:

(1) Relevant statutes, including the provisions of 31 U.S.C. 1352;

(2) Regulations, for example “New Restrictions on Lobbying,” (55 FR 6739, February 26, 1990), including the definitions; and

(3) Other applicable OMB guidance.

* * * * *

(c) * * *

(1) * * *

(iii) Establishing, administering, contributing to, or paying the expenses of a voter registration campaign, voter registration drive, or any similar activity, or paying the expenses of another entity engaged in such activities;

(iv) Engaging in issue advocacy or public messaging that promotes or opposes a particular social, political, or public policy position unrelated to the statutory objectives or performance requirements of the Federal award, including messaging designed to influence public attitudes on matters not necessary to accomplish the purpose of the Federal award;

(v) Attempting to influence the executive branch of any State government on matters unrelated to the objectives or performance requirements of the Federal award, including attempts to affect State agency policymaking,

rulemaking, or administrative actions for purposes other than carrying out objectives of the Federal award;

* * * * *

■ 105. Revise § 200.454 to read as follows:

§ 200.454 Memberships, subscriptions, and professional activity costs.

(a) Costs of the recipient’s or subrecipient’s membership in professional, civic, business, and technical organizations are allowable if necessary to fulfill the award requirements. Such costs must receive prior written approval of the Federal agency.

(b) Costs of the recipient’s or subrecipient’s subscriptions to business, professional, academic, and technical periodicals are unallowable.

(c) Costs of membership in any country club or social or dining club or organization are unallowable.

(d) Costs of membership in organizations whose primary purpose is lobbying or issue advocacy are unallowable. See § 200.450.

■ 106. In § 200.455, revise paragraph (c) to read as follows:

§ 200.455 Organization costs.

* * * * *

(c) The costs related to data and evaluation are allowable. Data costs include (but are not limited to) the expenditures needed to gather, acquire, store, track, manage, analyze, disaggregate, secure, share, publish, or otherwise use data to administer or improve the program, such as data systems, personnel, data dashboards, cybersecurity, and related items. Data costs may also include direct or indirect costs associated with building integrated data systems—data systems that link individual-level data from multiple State and local government agencies for purposes of management, research, and evaluation. Data costs related to integrated data systems should align with the finalized Federal grants data standards as published on *Grants.gov*. Evaluation costs include (but are not limited to) evidence reviews, evaluation planning and feasibility assessment, conducting evaluations, sharing evaluation results, and other personnel or materials costs related to the effective building and use of evidence and evaluation for program design, administration, or improvement.

■ 107. Revise § 200.461 to read as follows:

§ 200.461 Publication and printing costs.

(a) *In general.* Except as provided in paragraph (b) of this section, publication costs (including page charges, article

processing charges (APCs), or similar fees such as open access fees for professional journal publications and other peer-reviewed publications) are unallowable under Federal awards. Printing costs (including distribution and general handling) are allowable.

(b) *Exceptions.* The only exceptions to paragraph (a) of this section are for publication costs that are specifically required by Federal statute or approved in advance by the Federal agency on a case-by-case basis. A general requirement to make results publicly available must not be construed as authorizing publication costs.

(c) *Requirements.* (1) Allowable publication costs included in the terms and conditions of a Federal award must meet the following requirements:

(i) The publications report work supported by the Federal Government; and

(ii) The charges are levied impartially on all items published by the journal, whether or not under a Federal award.

(2) The recipient or subrecipient may charge the Federal award during closeout for the costs of publication or sharing of research results if the costs were not incurred during the period of performance of the Federal award. These costs must be charged to the final budget period of the award unless otherwise specified by the Federal agency.

■ 108. Revise § 200.467 to read as follows:

§ 200.467 Selling and marketing costs.

Costs of selling and marketing any products or services of the recipient or subrecipient are unallowable unless they are expressly included in the Federal award *and necessary to meet the requirements of the Federal award.*

■ 109. In § 200.472, revise paragraph (a)(5) introductory text to read as follows:

§ 200.472 Termination and standard closeout costs.

(a) * * *

(5) The following settlement expenses are generally allowable:

* * * * *

■ 110. In § 200.475, revise paragraph (d) to read as follows:

§ 200.475 Travel costs.

* * * * *

(d) *Establishing rates and amounts.* In the absence of an established written policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701–11, by the Administrator of General Services, or by the President (or designee) pursuant to any provisions of such subchapter must apply to travel

under Federal awards (48 CFR 31.205–46(a)).

* * * * *

■ 111. Add § 200.477 to read as follows:

§ 200.477 Abortion.

Costs associated with elective abortions are unallowable, except as expressly authorized by Federal law.

■ 112. In § 200.503, revise paragraph (b) to read as follows:

§ 200.503 Relation to other audit requirements.

* * * * *

(b) *Conducting additional audits.* Notwithstanding paragraph (a) of this section, a Federal agency, Inspector General, or GAO may conduct or arrange additional audits to carry out its responsibilities only under applicable Federal statutes. The provisions of this part do not authorize any non-Federal entity to constrain, in any manner, such Federal agency from carrying out or arranging for such additional audits, except that the Federal agency must plan such audits not to be duplicative of other audits of Federal awards. Prior to commencing such an audit, the Federal agency or pass-through entity must review the FAC for recent audits submitted by the non-Federal entity, and to the extent such audits meet a Federal agency or pass-through entity’s needs, the Federal agency or pass-through entity must rely upon and use such audits. Any additional audits must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed by other auditors.

* * * * *

■ 113. In § 200.507, revise paragraph (c)(1) to read as follows:

§ 200.507 Program-specific audits.

* * * * *

(c) * * *

(1) *Submission deadline and public availability.* The audit must be completed and submitted in accordance with paragraph (c)(2) or (3) of this section. Unless a different period is specified in the program-specific audit guide, the audit must be submitted within 30 calendar days after the auditee receives the auditor’s report(s) or nine months after the end of the audit period (whichever is earlier). The submission is due the next business day when the due date falls on a Saturday, Sunday, or Federal holiday. Unless restricted by Federal law or regulation, the auditee must make copies of the reporting package available for public inspection. Auditees and auditors must ensure that their respective parts of the

reporting package do not include personally identifiable information (PII) and other information subject to protections against disclosure under applicable law.

* * * * *

■ 114. In § 200.512, revise paragraphs (a)(2) and (b)(2)(ii) to read as follows:

§ 200.512 Report submission.

(a) * * *

(2) The auditee must make copies available for public inspection unless restricted by Federal statute or regulation. Auditees and auditors must ensure that their respective parts of the reporting package do not include personally identifiable information (PII) and other information subject to protections against disclosure under applicable law.

(b) * * *

(2) * * *

(ii) The reporting package does not include personally identifiable information (PII) and other information subject to protections against disclosure under applicable law;

* * * * *

■ 115. In § 200.513, revise paragraphs (c)(4) and (c)(6)(vii) to read as follows:

§ 200.513 Responsibilities.

* * * * *

(c) * * *

(4) Provide OMB with updates to the compliance supplement. These updates include working with OMB to ensure that the compliance supplement focuses the auditor on testing the compliance requirements most likely to cause improper payments, fraud, waste, abuse, or generate audit findings for which the Federal agency will take action in accordance with § 200.505. Prior to submitting compliance supplement drafts to OMB, Federal agencies should engage with external audit stakeholders, the Federal agency’s Office of Inspector General, and the National Single Audit Coordinator (NSAC).

* * * * *

(6) * * *

(vii) Ensure the Federal agency provides OMB with updates to the compliance supplement consistent with the compliance supplement preparation guide.

* * * * *

■ 116. In § 200.514, revise paragraph (c)(1) to read as follows:

§ 200.514 Standards and scope of audit.

* * * * *

(c) * * *

(1) The compliance supplement provides guidance on internal controls over Federal programs.

* * * * *

- 117. In appendix I to part 200:
 - a. Revise paragraphs (a)(3)(i) through (viii), (b)(1)(i)(H), (b)(3), and (b)(4)(ii)(A) and (B);
 - b. Remove paragraph (b)(4)(ii)(D);
 - c. Redesignate paragraphs (b)(4)(ii)(E) through (J) as paragraphs (b)(4)(ii)(D) through (I), respectively; and
 - d. Revise paragraphs (b)(5)(iii) and (iv), (b)(6)(iii)(A)(2), and (b)(8)(ii)(C).

The revisions read as follows:

Appendix I to Part 200—Full Text of Notice of Funding Opportunity

- (a) * * *
- (3) * * *
- (i) Basic Information.
- (ii) Eligibility.
- (iii) Funding Opportunity Description.
- (iv) Application Contents and Format.
- (v) Submission Requirements and Deadlines.
- (vi) Application Review Information.
- (vii) Award Notices.
- (viii) Post-Award Requirements and Administration.
- * * * * *
- (b) * * *
- (1) * * *
- (i) * * *
- (H) Executive Summary. A brief description that is written in plain language and summarizes the goals and objectives of the program, the target audience, and eligible recipients. The text of the executive summary must not exceed 500 words, unless authorized by the head of the Federal agency (or designee).

(3) *Funding Opportunity Description.* This section contains the full description of the funding opportunity.

- (4) * * *
- (ii) * * *
- (A) Limitations on page numbers or words.
- (B) Formatting requirements, including font and font size, margins, page size, and color limitations.

(5) * * *
(iii) *Submission Instructions.* This section addresses how the applicant will submit the application. It must include the following:

(A) Actions needed prior to applying: Instructions on any registrations required to access electronic submission systems or links to them. Where possible, provide the expected time frames needed to complete the registration process.

(B) The methods for submitting the application:
(1) The Federal agency must inform applicants that applications must be submitted via *Grants.gov*, unless a program specific exception is expressly authorized by Federal statute or approved by the Federal agency head (or designee).

(2) The Federal agency must provide a link to the instructions on how to submit an application.

(C) If applicable, this section also must say how applicants must submit pre-applications, letters of intent, Statements of Interest (SOI), third-party information, or other information required before the award.

(D) This section must also include what to do in the event of system problems and a point of contact who will be available if the applicant experiences technical difficulties.

(iv) *Submission Dates and Times.* This section must include due dates and times for all submissions. This includes the following:
(A) Full applications.

(B) Any preliminary submissions, such as letters of intent, Statements of Interest (SOI), white papers, or pre-applications.

(C) Any other submissions required before Federal award separate from the full application.

(D) If the funding opportunity is a general announcement that is open for a period of time with no specific due dates for applications, this section should say so.

- * * * * *
- (6) * * *
- (iii) * * *
- (A) * * *
- (2) A brief description of the merit review process, including how the Federal agency uses merit review (including pre-issuance review) outcomes in final decision-making. For example, whether they are advisory only.

- * * * * *
- (8) * * *
- (ii) * * *
- (C) The means of submission.
- * * * * *

- 118. In appendix II to part 200, revise paragraph (C) to read as follows:

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

* * * * *
(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b).

Appendix VIII to Part 200 [Removed and Reserved]

- 119. Remove and reserve appendix VIII to part 200.
- 120. Revise appendix IX to part 200 to read as follows:

Appendix IX to Part 200—Hospital Cost Principles

Until such time as revised guidance is proposed and implemented for hospitals, the existing principles located at appendix IX to part 300 of this title remain in effect.

SUBTITLE B—FEDERAL AGENCY REGULATIONS FOR GRANTS AND AGREEMENTS

CHAPTER III—DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 300—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

- 121. The authority citation for part 300 continues to read as follows:

Authority: 5 U.S.C. 301, 2 CFR part 200.

- 122. Revise § 300.106 to read as follows:

§ 300.106 Adoption of 2 CFR part 200.

The Department of Health and Human Services adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, with the additions included in this part and part 376 of this chapter. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Health and Human Services. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 300.300 [Removed and Reserved]

- 123. Remove and reserve § 300.300.
- 124. Revise § 300.414 to read as follows:

§ 300.414 Indirect costs.

In addition to 2 CFR 200.414(c), the following specific indirect cost provisions apply:

(a) Indirect costs on training grants are limited to a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$25,000; and

(b) Indirect costs on grants awarded to foreign organizations and foreign public entities and performed fully outside of the territorial limits of the U.S. may be paid to support the costs of compliance with Federal requirements at a fixed rate of eight percent of MTDC exclusive of tuition and related fees, direct expenditures for equipment, and subawards in excess of \$25,000.

PART 376—NONPROCUREMENT DEBARMENT AND SUSPENSION

- 125. The authority citation for part 376 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 (note); E.O. 12689 (3 CFR, 1989 Comp., p. 235); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 11738 (3 CFR, 1973 Comp., p. 799).

§§ 376.10 and 376.30 [Redesignated as §§ 376.5 and 376.10]

- 126. Redesignate §§ 376.10 and 376.30 as §§ 376.5 and 376.10, respectively.
- 127. Revise newly redesignated §§ 376.5 and 376.10 to read as follows:

§ 376.5 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Health and Human Services (HHS or Department) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by HHS as supplemented by this part. This part satisfies the requirements in 2 CFR 180.20, section 3 of Executive Order 12549, “Debarment and Suspension”, Executive Order 12689, “Debarment and Suspension”, and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 376.10 What policies and procedures must I follow?

The policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, including the corresponding sections that HHS published in this part identified by the same section number. The contracts under a nonprocurement transaction, that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 376.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, HHS policies and procedures are those in the OMB regulation at 2 CFR part 180.

§ 376.20 [Redesignated as § 376.120 and Transferred to Subpart A]

- 128. Redesignate § 376.20 as § 376.120 and transfer newly redesignated § 376.120 to subpart A.
- 129. Revise newly redesignated § 376.120 to read as follows:

§ 376.120 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB

regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)), apply to you if you are a—

(a) Participant or principal in a “covered transaction” under subpart B of 2 CFR part 180, as supplemented by this part, and the definition of nonprocurement transaction” at 2 CFR 180.970.

(b) Respondent in HHS suspension or debarment action.

(c) HHS debarment or suspension official.

(d) HHS grants officer, agreements officer, or other HHS official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

- 130. Revise § 376.220 to read as follows:

§ 376.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part also applies to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c). (See optional lower tier coverage in the diagram in appendix A to 2 CFR part 180.)

- 131. Revise § 376.437 to read as follows:

§ 376.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and require the participant to include a similar term or condition in lower-tier covered transactions.

PART 382—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

- 132. The authority citation for part 382 is revised to read as follows:

Authority: 41 U.S.C. 8101–8106.

- 133. Revise §§ 382.10 through 382.30 to read as follows:

§ 382.10 What does this part do?

This part requires that the award and administration of Department of Health and Human Services (HHS) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101–8106, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Adopts the OMB regulation (subparts A through F of 2 CFR part 182) for the HHS grants and cooperative agreements; and

(b) Establishes HHS policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 8106 for Governmentwide implementing regulations.

§ 382.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of an HHS grant or cooperative agreement; or
- (b) HHS awarding official.

§ 382.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 382.225	Whom in HHS a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 382.300	Whom in HHS a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 382.500	Who in HHS is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(4) 2 CFR 182.505	§ 382.505	Who in HHS is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, HHS policies and procedures are the same as those in the OMB regulation.

■ 134. Revise § 382.400 to read as follows:

§ 382.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of part 382, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 8101–8106).

CHAPTER IV—DEPARTMENT OF AGRICULTURE

PART 400—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 135. The authority citation for part 400 continues to read as follows:

Authority: 5 U.S.C. 301; 2 CFR part 200.

§§ 400.0, 400.1, and 400.2 [Redesignated as §§ 400.1, 400.106, and 400.112]

■ 136. Redesignate §§ 400.0, 400.1, and 400.2 as §§ 400.1, 400.106, and 400.112, respectively.

■ 137. Revise newly redesignated § 400.106 to read as follows:

§ 400.106 Agency implementation.

This part adopts the OMB regulation in subparts A through F of 2 CFR part 200, as supplemented by this chapter, as USDA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards. This part gives regulatory effect to the OMB regulation, as supplemented by this chapter, for Federal awards issued by USDA. See 2

CFR 200.110(a) regarding the process for amending 2 CFR part 200.

PART 417—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 138. The authority citation for part 417 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 2209; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); Pub. L. 101–576, 104 Stat. 2838; E.O. 12549 (51 FR 6370, 3 CFR, 1986 Comp., p. 189); E.O. 12689 (54 FR 34131, 3 CFR, 1989 Comp., p. 235); 2 CFR part 180; 7 CFR 2.28.

■ 139. Revise §§ 417.10 through 471.30 to read as follows:

§ 417.10 What does this part do?

This part adopts the OMB regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the USDA policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the USDA to the OMB regulation, as supplemented by this part. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, USDA policies and procedures are those in the OMB regulation. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 417.20 Does this part apply to me?

Through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a:

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by §§ 417.215 and 417.220);

(b) Respondent in a USDA debarment and suspension action;

(c) USDA debarment or suspension official; or

(d) USDA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 417.30 What policies and procedures must I follow?

The USDA policies and procedures that you must follow are the policies and procedures specified in this part and each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 417.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, USDA policies and procedures are those in the OMB regulation.

■ 140. Revise subparts C and D to read as follows:

Subpart C—Responsibilities of Participants Regarding Transactions

§ 417.332 What methods must I use to pass down requirements to participants in lower tier covered transactions with whom I intend to do business?

You as a participant must include a term or condition in lower tier covered transactions requiring lower tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Department of Agriculture Officials Regarding Transactions

§ 417.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower tier covered transactions.

PART 421—REQUIREMENTS FOR DRUG—FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 141. The authority citation for part 421 is revised to read as follows:

Authority: 41 U.S.C. 8101–8106.

■ 142. Revise §§ 421.10 through 421.30 to read as follows:

§ 421.10 What does this part do?

This part requires that the award and administration of U.S. Department of Agriculture (USDA) grants and cooperative agreements comply with the Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101–8106, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Adopts the OMB regulation (subparts A through F of 2 CFR part 182) for USDA’s grants and cooperative agreements; and

(b) Establishes USDA policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 8106 for Governmentwide implementing regulations.

§ 421.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of a USDA grant or cooperative agreement; or
- (b) USDA awarding official.

§ 421.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 421.225	Whom in the USDA a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 421.300	Whom in the USDA a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 421.500	Who in the USDA is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 421.505	Who in the USDA is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, USDA policies and procedures are the same as those in the OMB regulation.

■ 143. Revise § 421.400 to read as follows:

§ 421.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR part 421, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 8101–8106).

CHAPTER VI—DEPARTMENT OF STATE

PART 600—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 144. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C 2651a, 22 U.S.C. 2151, 22 U.S.C. 2451, 22 U.S.C. 1461, 2 CFR part 200.

■ 145. Revise § 600.101 to read as follows:

§ 600.101 Applicability.

(a) The Department of State adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, as follows:

(1) 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 in paragraph (a)(2) of this section.

(2) 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 parts 30 and 31 takes precedence over the cost principles in subpart E of 2 CFR part 200 for Federal awards to U.S. and foreign for-profit entities.

(b) This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of State. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

■ 146. Add § 600.201 to read as follows:

§ 600.201 Use of grants and cooperative agreements.

Notwithstanding 2 CFR 200.201(b), the DOS is permitted to issue fixed amount awards for Foreign Assistance and Public Diplomacy programs according to DOS internal policies and procedures that support the effective oversight and financial management of such awards.

§ 600.205 [Redesignated as § 600.206]

■ 147. Redesignate § 600.205 as § 600.206.

PART 601—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 148. The authority citation for part 601 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108; Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549; (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3); CFR, 1989 Comp., p. 235).

■ 149. Revise §§ 601.10 through 601.30 to read as follows:

§ 601.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of State (DOS) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for DOS to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189); Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235); and section 2455 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (31 U.S.C. 6101 note).

§ 601.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a DOS suspension or debarment action;

(c) DOS debarment or suspension official; and

(d) DOS grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 601.30 What policies and procedures must I follow?

The DOS policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180 and any supplemental policies and procedures set forth in this part.

■ 150. Revise subparts B through D to read as follows:

Subpart B—Covered Transactions

§ 601.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or

its agent or representative in any transaction, if the contract is to be funded or provided by the DOS under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the DOS nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 601.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You, as a participant, must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 601.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

CHAPTER VII—AGENCY FOR INTERNATIONAL DEVELOPMENT [REMOVED]

■ 151. Under the authority of 5 U.S.C. 301; Sec. 621, Public Law 87–195, 75 Stat 445, (22 U.S.C. 2381) as amended, E.O. 12163, Sept 29, 1979, 44 FR 56673; 2 CFR 1979 Comp., p. 435, remove chapter VII.

CHAPTER VIII—DEPARTMENT OF VETERANS AFFAIRS

PART 801—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 152. The authority citation for part 801 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 38 U.S.C. 501(a) and 3703(c).

■ 153. Revise §§ 801.10 through 801.30 to read as follows:

§ 801.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Veterans Affairs (VA) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation, as supplemented by this part, for the Department of Veteran Affairs. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 801.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B of this part);

(b) Respondent in a Department of Veterans Affairs debarment or suspension action;

(c) Department of Veterans Affairs debarment or suspension official; or

(d) Department of Veterans Affairs grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 801.30 What policies and procedures must I follow?

For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Veterans Affairs policies and procedures are those in the OMB regulation. For any such section where there is a corresponding section in this part, the Department of Veterans Affairs policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, and as supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 801.220.

■ 154. Revise subparts A through D to read as follows:

Subpart A—General**§ 801.137 Who in the Department of Veterans Affairs may grant an exception to allow an excluded person to participate in a covered transaction?**

Within the Department of Veterans Affairs, the Secretary of Veterans Affairs, the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, or other Designee of the Secretary each has the authority to grant an exception to allow an excluded person to participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions**§ 801.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

VA does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction, although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions**§ 801.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**§ 801.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180 (as supplemented by subpart C of this part) and requires the participant to include a similar term or condition in lower-tier covered transactions.

- 155. Revise the heading of subpart J to read as follows:

Subpart J—Limited Denial of Participation (Optional Regulations for OMB Regulations at 2 CFR Part 180)**PART 802—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

- 156. The authority citation for part 802 continues to read as follows:

Authority: 5 U.S.C. 301; 38 U.S.C. 501, 2 CFR part 200, and as noted in specific sections.

- 157. Revise § 802.101 to read as follows:

§ 802.101 Applicability.

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 shall apply to the Department of Veterans Affairs. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Veterans Affairs. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

CHAPTER IX—DEPARTMENT OF ENERGY**PART 901—NONPROCUREMENT DEBARMENT AND SUSPENSION**

- 158. The authority citation for part 901 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235); 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

- 159. Revise §§ 901.10 through 901.30 to read as follows:

§ 901.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Energy (DOE) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by DOE as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189); Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235); and section 2455 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (31 U.S.C. 6101 note).

§ 901.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

- (a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);
- (b) Respondent in a DOE suspension or debarment action;
- (c) DOE debarment or suspension official; and
- (d) DOE grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 901.30 What policies and procedures must I follow?

The DOE policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180 and any supplemental policies and procedures set forth in this part.

- 160. Revise subparts B through D to read as follows:

Subpart B—Covered Transactions**§ 901.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), DOE does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions**§ 901.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You, as a participant, must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**§ 901.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR

180.435, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

PART 902—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 161. The authority citation for part 902 continues to read as follows:

Authority: 41 U.S.C. 701; 42 U.S.C. 7101 *et seq.*; 50 U.S.C. 2401 *et seq.*

■ 162. Revise §§ 902.10 through 902.30 to read as follows:

§ 902.10 What does this part do?

This part requires that the award and administration of Department of Energy (DOE) grants and cooperative

agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the DOE’s grants and cooperative agreements; and

(b) Establishes DOE policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 902.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2

CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of a DOE grant or cooperative agreement; or
- (b) DOE awarding official.

§ 902.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a).	§ 902.225	Whom in the DOE a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b).	§ 902.300	Whom in the DOE a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 902.500	Who in the DOE is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 902.505	Who in the DOE is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(5) 2 CFR 182.605	§ 902.605	Definition of “Award”.
(6) 2 CFR 182.645	§ 902.645	Definition of “Federal agency or agency”.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, DOE policies and procedures are the same as those in the OMB regulation.

■ 163. Revise § 902.400 to read as follows:

§ 902.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of Part 902, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub.

L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

PART 910—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 164. The authority citation for part 910 continues to read as follows:

Authority: 42 U.S.C. 7101, *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*; 2 CFR part 200.

§§ 910.120 and 910.122 [Redesignated as §§ 910.100 and 910.101]

- 165. Redesignate §§ 910.120 and 910.122 as §§ 910.100 and 910.101.
- 166. Revise newly redesignated § 910.101 to read as follows:

§ 910.101 Purpose.

The Department of Energy adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, with the additions included in subparts B through F of this part. This part gives regulatory effect to the OMB regulation for Federal awards issued by the

Department of Energy. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

■ 167. Revise § 910.350 to read as follows:

§ 910.350 Applicability of 2 CFR part 200.

(a) As stated in § 910.122, unless otherwise noted in this part, the definition of *Non-Federal entity* found in 2 CFR 200.1 is expanded for DOE 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.

(c) This subpart contains specific changes to 2 CFR part 200 that apply only to For-Profit Recipients and, unless otherwise specified, subrecipients. In some cases, the coverage in this subpart will replace the language in a specific section of 2 CFR part 200.

CHAPTER X—DEPARTMENT OF THE TREASURY**PART 1000—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

■ 168. The authority citation for part 1000 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 301; 2 CFR part 200.

■ 169. Revise § 1000.10 to read as follows:

§ 1000.10 Applicable regulations.

Except for the deviations set forth elsewhere in this part, the Department of the Treasury adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth at 2 CFR part 200, for Federal awards issued by the Department. This part gives regulatory effect to the Office of Management and Budget (OMB) regulation for Federal awards issued by the Department of the Treasury. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

CHAPTER XI—DEPARTMENT OF DEFENSE

■ 170. Revise part 1104 to read as follows:

PART 1104—IMPLEMENTATION OF GOVERNMENTWIDE REGULATION FOR FEDERAL FINANCIAL ASSISTANCE

Sec.

1104.2 Purpose of this part.

1104.3 Award format for DoD Components' grants and cooperative agreements.

1104.5 Regulations governing DoD Components' general terms and conditions.

1104.10 Regulations governing DoD Components' award-specific terms and conditions.

1104.15 Regulations governing DoD Components' internal procedures.

1104.20 Definitions.

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

§ 1104.2 Purpose of this part.

Except as otherwise provided in this part, the Department of Defense (DoD) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. Subject to certain exceptions, this part gives regulatory effect to the OMB regulation for Federal awards issued by DoD. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 1104.3 Award format for DoD Components' grants and cooperative agreements.

DoD Components must conform the format of new grants and cooperative

agreements to the standard award format specified in part 1120 of the DoD Grant and Agreement Regulations (DoDGARS) (2 CFR part 1120). The standard format provides locations within the award for:

(a) General terms and conditions, including the administrative and national policy requirements discussed in § 1104.5(a) and (b), respectively.

(b) Any award-specific terms and conditions discussed in § 1104.10.

§ 1104.5 Regulations governing DoD Components' general terms and conditions.

(a) *Administrative requirements.* On an interim basis pending completion of the update of the DoDGARS to implement OMB regulation published in 2 CFR part 200, the following regulatory provisions govern the administrative requirements to be included in general terms and conditions of DoD Components' new grants and cooperative agreements:

(1) The provisions of parts 1126 through 1138 of the DoDGARS (2 CFR parts 1126 through 1138, which comprise subchapter D of this chapter) govern the administrative requirements to be included in the general terms and conditions of DoD Components' new grants and cooperative agreements awarded to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes.

(2) Part 34 of the DoDGARS (32 CFR part 34) governs the administrative requirements to be included in general terms and conditions of DoD Components' grants and cooperative agreements awarded to for-profit entities.

(b) *National policy requirements.* Part 1122 of the DoDGARS (2 CFR part 1122) governs the national policy requirements to be included in DoD Components' new grants and cooperative agreements awarded to all types of entities.

§ 1104.10 Regulations governing DoD Components' award-specific terms and conditions.

On an interim basis pending completion of the update of the DoDGARS to implement OMB regulation published in 2 CFR part 200:

(a) The regulation in 2 CFR part 200 governs administrative requirements to be included in any award-specific terms and conditions used to supplement the general terms and conditions of a new grant or cooperative agreement awarded to an institution of higher education, nonprofit organization, State, local government, or Indian tribe.

(b) Part 34 of the DoDGARS (32 CFR part 34) governs the administrative

requirements to be included in any award-specific terms and conditions of DoD Components' grants and cooperative agreements awarded to for-profit entities.

§ 1104.15 Regulations governing DoD Components' internal procedures.

On an interim basis pending completion of the update of the DoDGARS to implement OMB regulation published in 2 CFR part 200, DoD Components' internal pre-award, time-of-award, and post-award procedures will continue to comply with requirements in parts 21 and 22 of the DoDGARS (32 CFR parts 21 and 22) and other applicable Defense Grant and Agreement Regulatory System (DGARS) policies.

§ 1104.20 Definitions.

(a) *DoD Grant and Agreement Regulations.* The term *DoD Grant and Agreement Regulations (DoDGARS)* means the regulations in 32 CFR subtitle A, chapter I, subchapter C, and this chapter.

(b) *Other terms.* See part 1108 of the DoDGARS (2 CFR part 1108) for definitions of other terms used in this part.

PART 1120—AWARD FORMAT FOR DOD GRANTS AND COOPERATIVE AGREEMENTS

■ 171. The authority citation for part 1120 continues to read as follows:

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

■ 172. Revise § 1120.405 to read as follows:

§ 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 Office of Management and Budget (OMB) regulation in 2 CFR 200.111(b) by informing each recipient that all Federal financial assistance announcements, applications, and Federal award information must be in the English language and must be in terms of U.S. dollars.

(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.

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

■ 173. The authority citation for part 1122 continues to read as follows:

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

■ 174. Revise § 1122.1 to read as follows:

§ 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 Department of Defense (DoD) grants and cooperative agreements, which concerns national policy requirements.

(b) This part implements:

(1) Office of Management and Budget (OMB) regulation in 2 CFR 200.210 and 200.300, as those sections 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.

PART 1125—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 175. The authority citation for part 1125 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235; 5 U.S.C. 301 and 10 U.S.C. 113.

■ 176. Revise §§ 1125.10 through 1125.40 to read as follows:

§ 1125.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Defense (DoD) policies and procedures for nonprocurement debarment and suspension. This part implements, for the Department of Defense, the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1125.20 Does this part implement the OMB regulation in 2 CFR part 180 for all DoD nonprocurement transactions?

This part implements the OMB guidelines in 2 CFR part 180 for most DoD nonprocurement transactions. However, it does not implement the guidelines as they apply to prototype

projects under the authority of section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Pub. L. 103–160), as amended. The Director of Defense Procurement and Acquisition Policy maintains a DoD issuance separate from this part that addresses section 845 transactions.

§ 1125.30 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B of this part), other than a section 845 transaction described in § 1125.20;

(b) Respondent in a DoD Component’s nonprocurement suspension or debarment action;

(c) DoD Component’s debarment or suspension official; or

(d) DoD Component’s grants officer, agreements officer, or other official authorized to enter into a nonprocurement transaction that is a covered transaction.

§ 1125.40 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through I of 2 CFR part 180, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 180, this part supplements eight sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 180.135 ..	§ 1125.137	Who in DoD may grant an exception for an excluded person to participate in a covered transaction.
(2) 2 CFR 180.220 ..	§ 1125.220	Which lower-tier contracts under a nonprocurement transaction are covered transactions.
(3) 2 CFR 180.330 ..	§ 1125.332	What method a participant must use to communicate requirements to a lower-tier participant.
(4) 2 CFR 180.425 ..	§ 1125.425	When a DoD awarding official must check to see if a person is excluded or disqualified.
(5) 2 CFR 180.435 ..	§ 1125.437	What method a DoD official must use to communicate requirements to a participant.
(6) 2 CFR 180.930 ..	§ 1125.930	Which DoD officials are debarring officials.
(7) 2 CFR 180.1010	§ 1125.1010	Which DoD officials are suspending officials.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through I of 2 CFR part 180 that is not listed in paragraph (b) of this section, DoD policies and procedures are the same as those in the OMB regulation.

177. Revise subparts A through D to read as follows:

Subpart A—General

§ 1125.137 Who in the Department of Defense may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Defense, the Secretary of Defense, Secretary of a Military Department, Head of a Defense Agency, Head of the Office of Economic Adjustment, and Head of the Special Operations Command have the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 1125.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), the Department of Defense does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1125.332 What method must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant in a covered transaction must include a term or condition in any lower-tier covered transaction into which you enter, to require the participant of that transaction to—

(a) Comply with subpart C of 2 CFR part 180; and

(b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

Subpart D—Responsibilities of DoD Officials Regarding Transactions

Sec.

1125.425 When do I check to see if a person is excluded or disqualified?

1125.437 What method do I use to communicate to a participant the

requirements described in the OMB regulation at 2 CFR 180.435?

§ 1125.425 When do I check to see if a person is excluded or disqualified?

In addition to the four instances identified in the OMB regulation at 2 CFR 180.425, you as a DoD Component official must check to see if a person is excluded or disqualified before you obligate additional funding (e.g., through an incremental funding action) for a pre-existing grant or cooperative agreement with an institution of higher education, as provided in 32 CFR 22.520(e)(5).

§ 1125.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

You as a DoD Component official must include a term or condition in each covered transaction into which you enter, to communicate to the participant the requirements to—

(a) Comply with subpart C of 2 CFR part 180, as supplemented by subpart C of this part; and

(b) Include a similar term or condition in any lower-tier covered transactions into which the participant enters.

PART 1126—SUBCHAPTER D OVERVIEW

■ 178. The authority citation for part 1126 continues to read as follows:

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

■ 179. Revise § 1126.1 to read as follows:

§ 1126.1 Purposes of this subchapter.

This subchapter:

(a) Addresses general terms and conditions governing administrative requirements for use by Department of Defense (DoD) Components when awarding cost-type grants and cooperative agreements to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes. It does so by providing:

(1) A standard organization of the administrative requirements into articles of general terms and conditions, each of which is in a specific subject area.

(2) Standard wording for those articles; and

(3) Associated prescriptions for DoD Component's use of the standard wording to construct their general terms and conditions, which allow for adding, omitting, or varying in other ways from the standard wording in certain situations.

(b) Thereby implements Office of Management and Budget (OMB)

regulation in 2 CFR part 200 as it relates to general terms and conditions of grants and cooperative agreements to institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes.

■ 180. Revise § 1126.3 to read as follows:

§ 1126.3 Exceptions from requirements in this subchapter.

(a) *Exceptions that are not permitted.* A DoD Component may not grant any exception to the requirements in this subchapter if the exception is:

(1) Prohibited by statute, Executive order, or regulation;

(2) Inconsistent with the OMB implementation of the Single Audit Act in subpart F of 2 CFR part 200.

(b) *Other exceptions.* Other exceptions are permitted from requirements in this subchapter for institutions of higher education, nonprofit organizations, States, local governments, and Indian tribes as follows:

(1) *Statutory or regulatory exceptions.* A DoD Component's general terms and conditions may incorporate a requirement that is inconsistent with the requirements in this subchapter if that requirement is specifically authorized or required by a statute or regulation adopted in the Code of Federal Regulations after opportunity for public comment.

(2) *Individual exceptions.* The Head of the DoD Component or his or her designee may approve an individual exception affecting only one award in accordance with procedures stated in 32 CFR 21.340.

(3) *Small awards.* A DoD Component's terms and conditions for small awards may apply less restrictive requirements than those specified in this subchapter (a small award is an award for which the total value of obligated funding through the life of the award is not expected to exceed the simplified acquisition threshold).

(4) *Other class exceptions.* The Undersecretary of Defense for Research and Engineering has designated the Deputy Assistant Secretary of Defense for Science and Technology Foundations with the authority to approve any class exception affecting multiple awards other than small awards, with OMB concurrence if the class exception is for a requirement that is inconsistent with OMB regulation in 2 CFR part 200. Procedures for DoD Components' requests for class exceptions are stated in 32 CFR 21.340.

CHAPTER XII—DEPARTMENT OF TRANSPORTATION

PART 1200—NONPROCUREMENT SUSPENSION AND DEBARMENT

■ 181. The authority citation for part 1200 continues to read as follows:

Authority: 49 U.S.C. 322; Sec. 2455, Public Law 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 182. Revise §§ 1200.10 through 1200.30 to read as follows:

§ 1200.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Transportation policies and procedures for nonprocurement suspension and debarment. This part gives regulatory effect for the Department of Transportation to the OMB regulation for Federal awards issued by the Department as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Suspension and Debarment” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Suspension and Debarment” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1200.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a Department of Transportation suspension or debarment action;

(c) Department of Transportation debarment or suspension official; or

(d) Department of Transportation grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 1200.30 What policies and procedures must I follow?

The Department of Transportation policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section

number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220, as supplemented by § 1200.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Transportation policies and procedures are those in the OMB regulation.

■ 183. Revise subparts B through D to read as follows:

Subpart B—Covered Transactions

§ 1200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Transportation under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the Department of Transportation nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 1200.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180 and requires the participant to include a similar term or condition in lower-tier covered transactions.

PART 1201—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 184. The authority citation for part 1201 continues to read as follows:

Authority: 49 U.S.C. 322(a); 2 CFR 200.106.

§ 1201.1 [Redesignated as § 1201.5]

■ 185. Redesignate § 1201.1 as § 1201.5.

■ 186. Revise newly redesignated § 1201.5 to read as follows:

§ 1201.5 What does this part do?

Except as otherwise provided in this part, the Department of Transportation adopts the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200). This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Transportation (DOT). See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. This part superseded and repealed the requirements of the Department of Transportation Common Rules (49 CFR parts 18 and 19), except that grants and cooperative agreements executed prior to December 26, 2014, continue to be subject to 49 CFR parts 18 and 19 as in effect on the date of such grants or agreements.

■ 187. Revise § 1201.106 to read as follows:

§ 1201.106 DOT Component implementation.

The specific requirements and responsibilities for grant-making DOT Components are set forth in this part. DOT Components must implement the language in this part unless different provisions are required by Federal statute or are approved by DOT Headquarters. DOT Components making Federal awards to non-Federal entities must implement the language in subparts C through F of 2 CFR part 200 in codified regulations unless different provisions are required by Federal statute or are approved by DOT Headquarters.

CHAPTER XIII—DEPARTMENT OF COMMERCE

■ 188. Revise part 1326 to read as follows:

PART 1326—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

1326.10 What does this part do?

1326.20 Does this part apply to me?

1326.30 What policies and procedures must I follow?

Subpart A—General

1326.137 Who in the Department of Commerce may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

1326.216 Which nonprocurement transactions, in addition to those listed in 2 CFR 180.215, are not covered transactions?

1326.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

1326.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

1326.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–H [Reserved]

Subpart I—Definitions

1326.970 Nonprocurement transaction.

Subpart J [Reserved]

Authority: 5 U.S.C. 301; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 1326.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Commerce policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Commerce, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1326.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of

“nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B of this part and § 1326.970);

(b) Respondent in a Department of Commerce suspension or debarment action;

(c) Department of Commerce debarment or suspension official; or

(d) Department of Commerce grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 1326.30 What policies and procedures must I follow?

The Department of Commerce policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 1326.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Commerce policies and procedures are those in the OMB regulation.

Subpart A—General

§ 1326.137 Who in the Department of Commerce may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Commerce, the Secretary of Commerce or designee has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 1326.216 Which nonprocurement transactions, in addition to those listed in 2 CFR 180.215, are not covered transactions?

(a) For purposes of the Department of Commerce, a transaction that the Department needs to respond to a national or agency-recognized emergency or disaster includes the Fisherman’s Contingency Fund.

(b) For purposes of the Department of Commerce, an incidental benefit that results from ordinary governmental operations includes:

(1) Export Promotion, Trade Information and Counseling, and Trade policy.

(2) Geodetic Surveys and Services (Specialized Services).

(3) Fishery Products Inspection Certification.

(4) Standard Reference Materials.

(5) Calibration, Measurement, and Testing.

(6) Critically Evaluated Data (Standard Reference Data).

(7) Phoenix Data System.

(8) The sale or provision of products, information, and services to the general public.

(c) For purposes of the Department of Commerce, any other transaction if the application of an exclusion to the transaction is prohibited by law includes:

(1) The Administration of the Anti-dumping and Countervailing Duty Statutes.

(2) The export Trading Company Act Certification of Review Program.

(3) Trade Adjustment Assistance Program Certification.

(4) Foreign Trade Zones Act of 1934, as amended.

(5) Statutory Import Program.

§ 1326.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to a subcontract that is awarded by a participant in a procurement transaction covered under 2 CFR 180.220(a), if the amount of the subcontract exceeds or is expected to exceed \$25,000. This extends the coverage of the Department of Commerce nonprocurement suspension and debarment requirements to one additional tier of contracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1326.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 1326.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR

180.435, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–H [Reserved]

Subpart I—Definitions

§ 1326.970 Nonprocurement transaction.

For purposes of the Department of Commerce, nonprocurement transaction includes the following:

- (a) Joint project Agreements under 15 U.S.C. 1525.
- (b) Cooperative research and development agreements.
- (c) Joint statistical agreements.
- (d) Patent licenses under 35 U.S.C. 207.
- (e) NTIS joint ventures, 15 U.S.C. 3704b.

Subpart J [Reserved]

- 189. Revise part 1327 to read as follows:

PART 1327—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
1327.10 Adoption of 2 CFR part 200.
1327.11 [Reserved]

Authority: 5 U.S.C. 301; 38 U.S.C. 501; 2 CFR part 200.

§ 1327.10 Adoption of 2 CFR part 200.

The Department of Commerce adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Commerce. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 1327.11 [Reserved]

PART 1329—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

- 190. The authority citation for part 1329 continues to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701–707.

- 191. Revise §§ 1329.10 through 1329.30 to read as follows:

1329.10 What does this part do?

This part requires that the award and administration of Department of Commerce grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

- (a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the Department of

Commerce's grants and cooperative agreements; and

(b) Establishes Department of Commerce policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

1329.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of a Department of Commerce grant or cooperative agreement; or
- (b) Department of Commerce awarding official.

1329.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a).	§ 1329.225	Whom in the Department of Commerce a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b).	§ 1329.300	Whom in the Department of Commerce a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500 ..	§ 1329.500	Who in the Department of Commerce is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505 ..	§ 1329.505	Who in the Department of Commerce is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, Department of Commerce policies and procedures are the same as those in the OMB regulation.

- 192. Revise § 1329.400 to read as follows:

1329.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB regulation?

To obtain a recipient's agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR part 1329, which

adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

CHAPTER XIV—DEPARTMENT OF THE INTERIOR

PART 1400—NONPROCUREMENT DEBARMENT AND SUSPENSION

- 193. The authority citation for part 1400 continues to read as follows:

Authority: Section 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 5 U.S.C. 301; E.O. 12549 (3 CFR, 1986 Comp., p. 189); and E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 194. Revise §§ 1400.20 and 1400.30 to read as follows:

1400.20 When does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B of this part and § 1400.970);

(b) Respondent in a Department of the Interior suspension or debarment action;

(c) Department of the Interior debarment or suspension official, *i.e.*, the Director, Office of Acquisition and Property Management; or

(d) Department of the Interior grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

1400.30 What policies and procedures must I follow?

(a) The Department of the Interior policies and procedures that you must follow are specified in:

(1) Each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180; and

(2) The supplement to each section of the OMB regulation that is found in this part under the same section number. (The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 1400.220.)

(b) For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of the Interior policies and procedures are those in the OMB regulation.

■ 195. Revise § 1400.137 to read as follows:

1400.137 Who in the Department of the Interior may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of the Interior, the Director, Office of Acquisition and Property Management has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

■ 196. Revise § 1400.220 to read as follows:

1400.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), the Department of the Interior does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

■ 197. Revise § 1400.332 read as follows:

1400.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180.

■ 198. Revise § 1400.437 to read as follows:

1400.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include

a similar term or condition in lower-tier covered transactions.

PART 1401—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 199. The authority citation for part 1401 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 6101 note, 7501; 41 U.S.C. 252a; 41 U.S.C. 701–707.

■ 200. Revise §§ 1401.100 through 1401.110 to read as follows:

1401.100 What does this part do?

This part requires that the award and administration of the Department of the Interior (DOI) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988, 41 U.S.C. 701–707, as amended (hereinafter, “the Act”) that applies to grants. This part—

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for DOI’s grants and cooperative agreements; and

(b) Establishes DOI policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Government-wide implementing regulations.

1401.105 Does this part apply to me?

(a) This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 apply if you are—

(1) A recipient of an assistance award from the Department of the Interior; or

(2) The Department of the Interior awarding official.

(b) Paragraphs (b)(1) through (3) of this section show the subparts that apply to you (in lieu of 2 CFR 182.115(b)):

If you are . . .	See subparts
(1) A recipient who is not an individual	A, C, and F.
(2) A recipient who is an individual	A, D, and F.
(3) A Department of the Interior awarding official	A, E, and F.

1401.110 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2

CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing OMB regulation in 2 CFR part 182, this part supplements four

sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures set forth in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a).	§ 1401.335	Whom in the DOI a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b).	§ 1401.401	Whom in the DOI a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500 ..	§ 1401.600	Who in the DOI is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505 ..	§ 1401.605	Who in the DOI is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) Sections of the OMB regulation that this part does not supplement. For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, DOI policies and procedures are the same as those in the OMB regulation.

■ 201. Revise § 1401.500 to read as follows:

§ 1401.500 What are my responsibilities as a DOI awarding official?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You, as the recipient, must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of part 1401, which adopts the government-wide implementation of 2 CFR part 182; sections 5152–5158 of the Drug-Free Workplace Act of 1988, Public Law 100–690, Title V, Subtitle D; 41 U.S.C. 701–707.

PART 1402—FINANCIAL ASSISTANCE INTERIOR REGULATION, SUPPLEMENTING THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 202. The authority citation for part 1402 continues to read as follows:

Authority: 5 U.S.C. 301 and 2 CFR part 200.

■ 203. Revise § 1402.100 to read as follows:

§ 1402.100 Purpose.

(a) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 apply to the Department of the Interior. This part adopts, as the Department of the Interior (DOI) policies and procedures, the Office of Management and Budget’s (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements set forth in 2 CFR

part 200 and gives regulatory effect to the OMB regulation for Federal awards issued by the Department of the Interior. The regulation applies in full except as stated in this part. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

(b) This part establishes DOI financial assistance regulations that implement or supplement the OMB regulation in 2 CFR part 200. It is designed to ensure that financial assistance is administered in full compliance with applicable law, regulation, policy, and best practices to ensure the American people get the most value from the funds DOI awards on financial assistance. For supplemental regulation, DOI has adopted section numbering that corresponds to related OMB regulation in 2 CFR part 200.

(c) This part extends 2 CFR part 200, subparts A through E, policies and procedures to foreign public entities and foreign organizations as allowed by 2 CFR 200.101, except as indicated throughout this part.

CHAPTER XV—ENVIRONMENTAL PROTECTION AGENCY

PART 1500—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 204. The authority citation for part 1500 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 136 *et seq.*, 15 U.S.C. 2601 *et seq.*, 20 U.S.C. 4011 *et seq.*, 33 U.S.C. 1251 *et seq.*, and 1401 *et seq.*, 42 U.S.C. 241, 242b, 243, 246, 300f *et seq.*, 1857 *et seq.*, 6901 *et seq.*, 7401 *et seq.*, and 9601 *et seq.*; 2 CFR part 200.

■ 205. Revise subpart A to read as follows:

Subpart A—Acronyms and Definitions

§ 1500.1 Definitions.

In addition to the definitions in 2 CFR 200.1, the following terms apply to this part:

Participant support costs, to provide that allowable participant support costs

under Environmental Protection Agency (EPA) assistance agreements include:

(1) Rebates or other subsidies provided to program participants for purchases and installations of commercially available, standard (“off the shelf”) pollution control equipment or low emission vehicles under the Diesel Emission Reduction Act program or programs authorized by EPA appropriation acts and permitted by terms specified in EPA assistance agreements or regulation, when the program participant rather than the recipient owns the equipment.

(2) Subsidies, rebates, and other payments provided to program beneficiaries to encourage participation in statutorily authorized programs to encourage environmental stewardship and enable the public to participate in EPA funded research, pollution abatement, and other projects or programs to the extent permitted by statutes and terms specified in EPA assistance agreements or guidance.

■ 206. Revise § 1500.2 to read as follows:

§ 1500.2 Adoption of 2 CFR part 200.

Under the authority listed in the authority citation for this part, the Environmental Protection Agency adopts the Office of Management and Budget (OMB) regulation “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities” (subparts A through F of 2 CFR part 200), as supplemented by this part, as the Environmental Protection Agency (EPA) 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 regulation for Federal awards issued by EPA, as supplemented by this part. EPA also has programmatic regulations located in 40 CFR chapter I, subchapter B. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

■ 207. Revise § 1500.4 to read as follows:

§ 1500.4 Exceptions.

Consistent with 2 CFR 200.102(c):

(a) In the EPA, the Director, Office of the Chief Grants Officer or designee, is authorized to grant exceptions on a case-by-case basis for recipients.

(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.

Subpart C—[Removed and Reserved]

■ 208. Remove and reserve subpart C, consisting of § 1500.6.

PART 1532—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 209. The authority citation for part 1532 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 7401 *et seq.*; Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 11738 (3 CFR, 1973 Comp., p. 799); E.O. 12549 (3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989 Comp., p. 235).

■ 210. Revise §§ 1532.10 through 1532.30 to read as follows:

§ 1532.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Environmental Protection Agency (EPA) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the EPA to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1532.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in an EPA suspension or debarment action;

(c) EPA debarment or suspension official; or

(d) EPA grants officer, agreements officer, or other official authorized to

enter into any type of nonprocurement transaction that is a covered transaction.

§ 1532.30 What policies and procedures must I follow?

The EPA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 1532.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, EPA policies and procedures are those in the OMB regulation.

■ 211. Revise subparts A through D to read as follows:

Subpart A—General**§ 1532.137 Who in the EPA may grant an exception to let an excluded person participate in a covered transaction?**

The EPA debarment official has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135. If the EPA debarment official grants an exception, the exception must be in writing and state the reason(s) for deviating from the Governmentwide policy in Executive Order 12549.

Subpart B—Covered Transactions**§ 1532.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the EPA under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the EPA nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions**§ 1532.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**§ 1532.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

■ 212. Revise § 1532.1125 to read as follows:

§ 1532.1125 How do award officials and others know if I am disqualified?

If you are convicted under the statutes in §§ 1532.1100 and 1532.1105, the EPA enters your name and address and that of the violating facility into the System for Award Management (*SAM.gov*) Exclusions as soon as possible after the EPA learns of your conviction. In addition, the EPA enters other information describing the nature of your disqualification. Federal award officials and others who administer Federal programs consult *SAM.gov* Exclusions before entering into or approving procurement and nonprocurement transactions. Anyone may access *SAM.gov* Exclusions through the internet, currently at <https://www.sam.gov>.

■ 213. In § 1532.1130, revise paragraph (a) to read as follows:

§ 1532.1130 How does disqualification under the CAA or CWA differ from a Federal discretionary suspension or debarment action?

(a) CAA and CWA disqualifications are exclusions mandated by statute. In contrast, suspensions and debarments imposed under subparts A through I of 2 CFR part 180 or under 48 CFR part 9, subpart 9.4, are exclusions imposed at the discretion of Federal suspending or debarment officials. This means that if you are convicted of violating the CAA

or CWA provisions described under § 1532.1105, ordinarily your name and that of the violating facility is placed into *SAM.gov* Exclusions before you receive a confirmation notice of the listing, or have the opportunity to discuss the disqualification with, or seek reinstatement from, the EPA.

* * * * *

■ 214. Revise § 1532.1200 to read as follows:

§ 1532.1200 How will I know if I am disqualified under the CAA or CWA?

There may be several ways that you learn about your disqualification. You are legally on notice by the CAA at 42 U.S.C. 4606 and CWA at 33 U.S.C. 1368 that a criminal conviction of any offense listed under 42 U.S.C. 7413(c) of the CAA or 33 U.S.C. 1319(c) of the CWA automatically disqualifies you. As a practical matter, you may learn about your disqualification from your defense counsel, a Federal contract or award official, or from someone else who sees your name on *SAM.gov* Exclusions. As a courtesy, the EPA will attempt to notify you that your name has been entered into *SAM.gov* Exclusions. The EPA will inform you of the procedures for seeking reinstatement and give you the name of a person you can contact to discuss your reinstatement request.

■ 215. Revise § 1532.1500 to read as follows:

§ 1532.1500 If I am reinstated, when will my name be removed from SAM.gov Exclusions?

If your eligibility for procurement and nonprocurement participation is restored under the CAA or CWA, whether by decision, appeal, or by administrative agreement, the EPA will remove your name and that of the violating facility from *SAM.gov* Exclusions, generally within 5 working days of your reinstatement.

PART 1536—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 216. The authority citation for part 1536 continues to read as follows:

Authority: 41 U.S.C. 701–707.

■ 217. Revise §§ 1536.10 through 1536.30 to read as follows:

§ 1536.10 What does this part do?

This part requires that the award and administration of Environmental Protection Agency grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—
(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the Environmental Protection Agency’s grants and cooperative agreements; and

(b) Establishes Environmental Protection Agency policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 1536.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of an Environmental Protection Agency grant or cooperative agreement; or
- (b) Environmental Protection Agency awarding official.

§ 1536.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a).	§ 1536.225	Whom in the Environmental Protection Agency a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b).	§ 1536.300	Whom in the Environmental Protection Agency a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500 ..	§ 1536.500	Who in the Environmental Protection Agency is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505 ..	§ 1536.505	Who in the Environmental Protection Agency is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, Environmental Protection Agency policies and procedures are the same as those in the OMB regulation.

■ 218. Revise § 1536.400 to read as follows:

§ 1536.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR Subtitle B, Chapter XV, Part 1536, which adopts the

Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

CHAPTER XVI—US INTERNATIONAL DEVELOPMENT FINANCE CORPORATION

PART 1600—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 219. The authority citation for part 1600 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549,

51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

■ 220. Revise §§ 1600.10 through 1600.30 to read as follows:

§ 1600.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the U.S. International Development Finance Corporation (DFC) regulations for non-procurement debarment and suspension. This part gives regulatory effect for DFC to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189); Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235); and section 2455 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (31 U.S.C. 6101 note).

§ 1600.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see 2 CFR part 180, subpart B, and the definition of “non-procurement transaction” at 2 CFR 180.970);

(b) Respondent in a DFC suspension or debarment action;

(c) DFC suspending or debarring official; and

(d) DFC investment, guarantee, insurance or grant official authorized to enter into any type of non-procurement transaction that is a covered transaction.

§ 1600.30 What regulations must I follow?

The DFC regulations that you must follow are the regulations specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180 as that section is supplemented by the section in this part with the same section number or by additional provisions with no corresponding section number. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, DFC regulations are those in the OMB regulation.

■ 221. Revise § 1600.220 to read as follows:

§ 1600.220 What contracts and subcontracts are covered transactions?

First-tier procurements (*i.e.*, primary contracts) under a covered

nonprocurement transaction are covered transactions. Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (see also optional lower tier coverage in the figure in appendix A to 2 CFR part 180), DFC does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement under a covered nonprocurement transaction. Moreover, for purposes of determining whether a procurement contract is included as a covered transaction, the threshold in 2 CFR 180.220(b) is increased from \$25,000 to the “simplified acquisition threshold” as defined in 48 CFR 2.101.

■ 222. Revise § 1600.332 to read as follows:

§ 1600.332 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

You, as a participant, must include a term or condition in lower-tier transactions that are covered transactions, requiring lower-tier participants to comply with the OMB regulation in 2 CFR part 180, subpart C, as supplemented by this subpart.

CHAPTER XVIII—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

PART 1800—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 223. The authority citation for part 1800 continues to read as follows:

Authority: 51 U.S.C. 20113 (e), Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 *et seq.*), and 2 CFR part 200.

Subparts B and C [Redesignated as Subparts C and D]

■ 224. Redesignate subparts B and C as subparts C and D.

■ 225. Add a new subpart B to read as follows:

Subpart B—General Provisions

§§ 1800.2 and 1800.3 [Redesignated as §§ 1800.100 and 1800.101 and Transferred to Subpart B]

■ 226. Redesignate §§ 1800.2 and 1800.3 as §§ 1800.100 and 1800.101 and transfer newly redesignated §§ 1800.100 and 1800.101 to subpart B.

■ 227. Revise newly redesignated §§ 1800.100 and 1800.101 to read as follows:

§ 1800.100 Purpose.

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through F and

applicable appendices of 2 CFR part 200, as supplemented by this part, as the NASA policies and procedures for uniform administrative requirements, cost principles, and audit requirements for Federal awards. This part gives regulatory effect to the OMB regulation for Federal awards issued by NASA as supplemented by this part. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 1800.101 Applicability.

(a) This part establishes policies and procedures for grants and cooperative agreements awarded by NASA to non-Federal entities, for-profit organization, foreign organizations, and foreign public entities as allowed by 2 CFR 200.101. For supplemental regulation, NASA has adopted section numbers that correspond to those in the OMB regulation in 2 CFR part 200.

(1) Non-Federal entities must follow the policies and procedures appearing in subparts A through F and applicable appendices of 2 CFR part 200 and as supplemented by this part.

(2) Foreign organizations and foreign public entities must follow the policies and procedures appearing in subparts A through E and applicable appendices of 2 CFR part 200 and as supplemented by this part.

(3) U.S. and foreign for-profit organizations must follow the policies and procedures appearing in subparts A through D and applicable appendices of 2 CFR part 200 and as supplemented by this part. The Federal Acquisition Regulation (FAR) at 48 CFR parts 30 and 31, takes precedence over the cost principles in 2 CFR part 200, subpart E, for Federal awards to U.S. and foreign for-profit organizations.

(b) Throughout this part, the term “award” refers to both “grant” and “cooperative agreement” unless otherwise indicated.

(c)(1) In general, research with foreign organizations and foreign public entities will not be conducted through grants or cooperative agreements, 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’s policy on performing research with foreign organizations and foreign public entities on a no-exchange-of-funds basis is set forth at NASA FAR Supplement (NFS) at 48 CFR 1835.016–70 and 1835.016–72. In rare instances, NASA may enter into an international agreement under which funds will be transferred to a foreign recipient.

(2) Grants or cooperative agreements awarded to foreign organizations and foreign public entities 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 issue awards to foreign organizations are to be coordinated through the Office of Procurement, Procurement and Grants Policy Division.

■ 228. Revise part 1880 to read as follows:

PART 1880—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

1880.10 What does this part do?

1880.20 Does this part apply to me?

1880.30 What policies and procedures must I follow?

Subpart A—General

1880.137 Who in NASA may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

1880.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

1880.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

1880.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–J [Reserved]

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 42 U.S.C. 2473(c)(1); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 1880.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Aeronautics and Space Administration (NASA) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by NASA, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 1880.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a NASA suspension or debarment action;

(c) NASA debarment or suspension official; or

(d) NASA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 1880.30 What policies and procedures must I follow?

The NASA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 1880.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NASA policies and procedures are those in the OMB regulation.

Subpart A—General

§ 1880.137 Who in NASA may grant an exception to let an excluded person participate in a covered transaction?

The Chief Acquisition Officer has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 1880.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

NASA extends coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement action, to all lower tier subcontracts, at all dollar values, consistent with OMB regulation at 2 CFR 180.220(c) and the figure in the appendix at 2 CFR part 180. NASA does not permit subcontracting to suspended or debarred entities at any tier, at any dollar amount.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 1880.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 1880.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–J [Reserved]

PART 1882—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 229. The authority citation for part 1882 continues to read as follows:

Authority: 41 U.S.C. 701 *et seq.*; 51 U.S.C. 20113(e).

■ 230. Revise § 1882.5 to read as follows:

§ 1882.5 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through F of 2 CFR part 182, as supplemented by this part, as the National Aeronautics and Space Administration (NASA) policies and procedures for implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants and cooperative agreements. This part gives regulatory effect to the OMB regulation for Federal awards issued by NASA. Further, it supplements the OMB regulation with NASA-specific regulation.

CHAPTER XIX—U.S. AGENCY FOR GLOBAL MEDIA

■ 231. Revise part 1900 to read as follows:

PART 1900—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
1900.1 Adoption of 2 CFR part 200.
1900.2 [Reserved]

Authority: 5 U.S.C. 301; 2 CFR part 200.

§ 1900.1 Adoption of 2 CFR part 200.

The U.S. Agency for Global Media adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the U.S. Agency for Global Media. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The U.S. Agency for Global Media may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the U.S. Agency for Global Media, including additions or clarifications, are set forth in this chapter.

§ 1900.2 [Reserved]

CHAPTER XX—UNITED STATES NUCLEAR REGULATORY COMMISSION

■ 232. Revise part 2000 to read as follows:

PART 2000—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

Subpart A—General

2000.10 What does this part do?
2000.20 Does this part apply to me?
2000.30 What policies and procedures must I follow?
2000.135 Who in the Nuclear Regulatory Commission may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2000.330 What method must be used to pass requirements down to participants at lower tiers?

Subparts D through H [Reserved]

Subpart I—Definitions

2000.930 Debarring official.
2000.1010 Suspending official.

Authority: 5 U.S.C. 301; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986

Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

Subpart A—General

§ 2000.10 What does this part do?

This part promulgates a regulation adopting the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, establishing the United States Nuclear Regulatory Commission (NRC) policies and procedures for nonprocurement debarment and suspension. NRC thereby gives regulatory effect to the OMB regulation. It also supplements the OMB regulation by identifying NRC implementing officials and identifying how to pass these requirements through to other entities.

§ 2000.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to:

- (a) Participant or principal in a “covered transaction”;
- (b) Respondent in an NRC nonprocurement suspension or debarment action;
- (c) NRC debarment or suspension official; or
- (d) NRC grants officer, agreements officer, or other official authorized to enter into a covered nonprocurement transaction.

§ 2000.30 What policies and procedures must I follow?

(a) The NRC policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, and those in this part. The NRC has closely tracked OMB's numbering scheme. For example, the contracts under a nonprocurement transaction that are covered transactions that are in 2 CFR 180.220 are supplemented by § 2000.220.

(b) For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NRC requirements are those in the OMB regulation at 2 CFR part 180.

§ 2000.135 Who in the Nuclear Regulatory Commission may grant an exception to let an excluded person participate in a covered transaction?

The Director, Office of Administration or another official designated by the Director, has the authority to grant a written exception to let an excluded person participate in a covered transaction, as provided in regulation at 2 CFR 180.135. The Director or other

official designated by the Director shall explain the reason(s) for deviating from the Governmentwide policy.

Subpart B—Covered Transactions

§ 2000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

The NRC nonprocurement suspension and debarment requirements apply only to first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2000.330 What method must be used to pass requirements down to participants at lower tiers?

A participant in a covered transaction must include a term or condition in any lower-tier covered transaction to require the participant of that transaction to—

- (a) Comply with subpart C of 2 CFR part 180; and
- (b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

Subparts D through H [Reserved]

Subpart I—Definitions

§ 2000.930 Debarring official.

The debarring official for the United States Nuclear Regulatory Commission is the Director, Office of Administration.

§ 2000.1010 Suspending official.

The suspending official for the United States Nuclear Regulatory Commission is the Director, Office of Administration.

■ 233. Add part 2001 to read as follows:

PART 2001—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

2001.5 Adoption of 2 CFR part 200.
2001.6 [Reserved]

Authority: 5 U.S.C. 301; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2001.5 Adoption of 2 CFR part 200.

The United States Nuclear Regulatory Commission adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the United States Nuclear Regulatory Commission. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The United States Nuclear Regulatory Commission may amend its

adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the United States Nuclear Regulatory Commission, including additions or clarifications, are set forth in this chapter.

§ 2001.6 [Reserved]

CHAPTER XXII—CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

■ 234. Revise part 2200 to read as follows:

PART 2200—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2200.10 What does this part do?

2200.20 Does this part apply to me?

2200.30 What policies and procedures must I follow?

2200.137 Who in the Corporation for National and Community Service may grant an exception to let an excluded person participate in a covered transaction?

2200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

2200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

2200.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Authority: 31 U.S.C. 6101 note; 42 U.S.C. 12651c(c); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2200.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Corporation for National and Community Service policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the Corporation for National and Community Service to the OMB regulation for Federal awards issued by the Corporation for National and Community Service, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 2200.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a Corporation for National and Community Service suspension or debarment action;

(c) Corporation for National and Community Service debarment or suspension official; or

(d) Corporation for National and Community Service grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2200.30 What policies and procedures must I follow?

The Corporation for National and Community Service policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 2200.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Corporation for National and Community Service policies and procedures are those in the OMB regulation.

§ 2200.137 Who in the Corporation for National and Community Service may grant an exception to let an excluded person participate in a covered transaction?

The Chief Executive Officer (or another official designated by the Chief Executive Officer) has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

§ 2200.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), Corporation for National and Community Service does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts

under a covered nonprocurement transaction.

§ 2200.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180.

§ 2200.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you as an agency official must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, and requires the participant to include a similar term or condition in lower-tier covered transactions.

PART 2205—IMPLEMENTATION OF AND EXEMPTIONS TO 2 CFR

■ 235. The authority citation for part 2205 continues to read as follows:

Authority: 42 U.S.C. 12571(d), 12571(e)(2)(B), 12581(l), 12581a(a), 12616(c)(2), 12651c(c), 12651d(h), 12651g(b), 12653(a), 12653(h), 12653o(a), and 12657(a); 2 CFR part 200; 45 CFR 2521.95, and 2540.110.

■ 236. Revise § 2205.100 to read as follows:

§ 2205.100 Purpose.

The Corporation for National and Community Service adopts the Office of Management and Budget’s (OMB) regulation in 2 CFR part 200, except as specified in this part. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Corporation for National and Community Service and supplements the regulation for recipients of awards from the Corporation. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 2205.332 [Redesignated as § 2205.333]

■ 237. Redesignate § 2205.332 as § 2205.333.

PART 2245—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 238. The authority citation for part 2245 continues to read as follows:

Authority: 41 U.S.C. 701–707; 42 U.S.C. 12644, 12651c(c).

■ 239. Revise §§ 2245.10 through 2245.30 to read as follows:

§ 2245.10 What does this part do?

This part requires that the award and administration of the Corporation for National and Community Service's (Corporation) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the Corporation's grants and cooperative agreements; and

(b) Establishes the Corporation's policies and procedures for compliance

with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Government-wide implementing regulations.

§ 2245.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

(a) Recipient of a Corporation grant or cooperative agreement; or

(b) A Corporation awarding official.

§ 2245.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 2245.225	Whom in the Corporation a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 2245.300	Whom in the Corporation a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 2245.500	Who in the Corporation is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 2245.505	Who in the Corporation is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, the Corporation's policies and procedures are the same as those in the OMB regulation.

■ 240. Revise § 2245.400 to read as follows:

§ 2245.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB regulation?

To obtain a recipient's agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must obtain each recipient's agreement, as a condition of the award, to comply with the requirements in subpart B (or subpart C, if the recipient is an individual) of this part, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

CHAPTER XXIII—SOCIAL SECURITY ADMINISTRATION

■ 241. Revise part 2300 to read as follows:

PART 2300—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

2300.10 Applicable regulations.

2300.11 [Reserved]

Authority: 5 U.S.C. 301; 2 CFR part 200.

§ 2300.10 Applicable regulations.

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200 shall apply to the Social Security Administration. This part gives regulatory effect to the Office of Management and Budget regulation for Federal awards issued by the Social Security Administration. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 2300.11 [Reserved]

■ 242. Revise part 2336 to read as follows:

PART 2336—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2336.10 What does this part do?

2336.20 Does this part apply to me?

2336.30 What policies and procedures must I follow?

Subpart A—General

2336.137 Who in the SSA may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2336.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2336.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2336.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–J [Reserved]

Authority: 42 U.S.C. 902(a)(5); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2336.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Social Security Administration (SSA) policies and

procedures for nonprocurement debarment and suspension. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 2336.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

- (a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);
- (b) Respondent in an SSA suspension or debarment action;
- (c) SSA debarment or suspension official; or
- (d) SSA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2336.30 What policies and procedures must I follow?

The SSA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220, as supplemented by § 2336.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, SSA policies and procedures are those in the OMB regulation.

Subpart A—General

§ 2336.137 Who in the SSA may grant an exception to let an excluded person participate in a covered transaction?

(a) Within the Social Security Administration, the Commissioner or the designated agency debarment official may grant an exception permitting an excluded person to

participate in a particular covered transaction. If the Commissioner or the designated agency debarment official grants an exception, the exception must be in writing and state the reason(s) for deviating from the OMB regulation at 2 CFR 180.135.

(b) An exception granted by one agency for an excluded person does not extend to the covered transactions of another agency.

Subpart B—Covered Transactions

§ 2336.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see option lower tier coverage in the figure in appendix A to 2 CFR part 180), SSA does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2336.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 2336.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–J [Reserved]

PART 2339—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 243. The authority citation for part 2339 continues to read as follows:

Authority: 41 U.S.C. 701–707.

■ 244. Revise §§ 2339.10 through 2339.30 to read as follows:

§ 2339.10 What does this part do?

This part requires that the award and administration of Social Security Administration (SSA) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

- (a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for SSA’s grants and cooperative agreements; and
- (b) Establishes SSA’s policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Government-wide implementing regulations.

§ 2339.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are—

- (a) A recipient of an SSA grant or cooperative agreement; or
- (b) An SSA awarding official.

§ 2339.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table.

Section of OMB regulation in 2 CFR	Section in this part where supplemented, 2 CFR	What the supplementation clarifies
(1) 182.225(a)	§ 2339.225	Who in SSA a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 182.300(b)	§ 2339.300	Who in SSA a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.

Section of OMB regulation in 2 CFR	Section in this part where supplemented, 2 CFR	What the supplementation clarifies
(3) 182.500	§ 2339.500	Who in SSA is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 182.505	§ 2339.505	Who in SSA is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* Our policies and procedures are the same as those in the OMB regulation for any section not included in the table in paragraph (b) of this section.

■ 245. Revise § 2339.400 to read as follows:

§ 2339.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB regulation?

You must include the following term or condition in the award:

Drug-free workplace. You, as the recipient, must comply with drug-free workplace requirements in subpart B, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

CHAPTER XXIV—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■ 246. Revise part 2400 to read as follows:

PART 2400—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
2400.10 Applicable regulations.
2400.11 [Reserved]

Authority: 42 U.S.C. 3535(d); 2 CFR part 200.

§ 2400.10 Applicable regulations.

Unless excepted under 24 CFR subtitle B, chapters I through IX, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, set forth in 2 CFR part 200, shall apply to Federal awards made by the Department of Housing and Urban Development to non-Federal entities. This part gives regulatory effect to the Office of Management and Budget (OMB) regulation for Federal awards issued by the Department of Housing and Urban Development. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 2400.11 [Reserved]

PART 2424—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 247. The authority citation for part 2424 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

■ 248. Revise § 2424.10 to read as follows:

§ 2424.10 What does this part do?

In this part, the Department of Housing and Urban Development (HUD) implements, as HUD policies, procedures, and requirements for nonprocurement debarment and suspension, the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part. This adoption thereby gives regulatory effect for HUD to the OMB regulation for Federal awards issued by HUD, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

■ 249. Revise § 2424.30 to read as follows:

§ 2424.30 What policies and procedures must I follow?

The HUD policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220, as supplemented by § 2424.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, HUD policies and procedures are those in the OMB regulation.

■ 250. Revise § 2424.220 to read as follows:

§ 2424.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by HUD under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the HUD nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower-tier coverage in the figure in appendix A to 2 CFR part 180).

■ 251. Revise § 2424.332 to read as follows:

§ 2424.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

To communicate the requirements to lower-tier participants, you must include a term or condition in the transaction requiring compliance with subpart C of 2 CFR part 180, as supplemented by this subpart.

■ 252. Revise § 2424.437 to read as follows:

§ 2424.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant to: comply with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and include a similar term or condition in lower-tier covered transactions.

PART 2429—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 253. The authority citation for part 2429 continues to read as follows:

Authority: 41 U.S.C. 701–707; 42 U.S.C. 3535(d).

■ 254. Revise §§ 2429.10 through 2429.30 to read as follows:

§ 2429.10 What does this part do?

This part requires that the award and administration of Department of Housing and Urban Development (HUD) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707) (referred to as the Act in this part) that applies to grants. This part:

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2

CFR part 182) for HUD grants and cooperative agreements; and

(b) Establishes HUD policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 2429.20 Does this part apply to me?

This part, and through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a:

- (a) Recipient of a HUD grant or cooperative agreement; or
- (b) HUD awarding official.

§ 2429.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures of the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a).	§ 2429.225	Whom in HUD must a recipient other than an individual notify if an employee is convicted for a violation of a criminal drug statute in the workplace?
(2) 2 CFR 182.300(b).	§ 2429.300	Whom in HUD must a recipient who is an individual notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity?
(3) 2 CFR 182.500 ..	§ 2429.500	Who in HUD is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part?
(4) 2 CFR 182.505 ..	§ 2429.505	Who in HUD is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part?

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, HUD policies and procedures are the same as those in the OMB regulation.

■ 255. Revise § 2429.400 to read as follows:

§ 2429.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of part 2429, which implements the governmentwide implementation (2 CFR part 182) of sections 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

CHAPTER XXV—NATIONAL SCIENCE FOUNDATION

■ 256. Revise part 2500 to read as follows:

PART 2500—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
2500.10 Adoption of 2 CFR part 200.
2500.11 [Reserved]

Authority: 42 U.S.C. 1861, *et seq.*; 2 CFR part 200.

§ 2500.10 Adoption of 2 CFR part 200.

(a) Under the authority cited for this part, the National Science Foundation (NSF) has formally adopted 2 CFR part 200. This part adopts the Office of Management and Budget (OMB) regulation for Federal awards issued by the NSF. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Foundation’s implementation document, the NSF Proposal & Award Policies & Procedures Guide, may be found at: www.nsf.gov/publications/pub_summ.jsp?ods_key=papp.

(b) NSF’s implementation includes the following deviation from the Uniform Grants Regulation:

(1) *Award Cash Management System.* NSF is continuing collection of award financial information through the implementation of the Award Cash Management Service (ACM\$) and the Program Income Worksheet. ACM\$ replaced the NSF Federal Financial

Report (FFR) and the NSF FastLane Cash Request process with a single web-based user interface. ACM\$ is used to collect award level detail financial information at the time of each payment request submitted by the awardee institution. The Program Income Worksheet is used to collect program income financial information from awardee institutions on an annual basis. ACM\$ and the Program Income Worksheet utilize approved Government-wide data elements from the FFR for the collection of financial information as prescribed in 2 CFR 200.328. The requirement for Federal agencies to use the FFR data elements for cash management and financial reporting was publicly announced in **Federal Register** on August 13, 2008.

(2) [Reserved]

§ 2500.11 [Reserved]

■ 257. Revise and republish part 2520 to read as follows:

PART 2520—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.
2520.10 What does this part do?
2520.20 Does this part apply to me?
2520.30 What policies and procedures must I follow?

Subpart A—General

2520.137 Who in NSF may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2520.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2520.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2520.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–I [Reserved]

Authority: 42 U.S.C. 1870(a); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2520.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Science Foundation (NSF) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for NSF to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 2520.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970).

(b) Respondent in an NSF suspension or debarment action.

(c) NSF debarment or suspension official.

(d) NSF grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2520.30 What policies and procedures must I follow?

The NSF policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 2520.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NSF policies and procedures are those in the OMB regulation.

Subpart A—General**§ 2520.137 Who in NSF may grant an exception to let an excluded person participate in a covered transaction?**

The NSF Director and the Deputy Director have the authority to grant an exception to let an excluded person participate in a covered transaction.

Subpart B—Covered Transactions**§ 2520.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?**

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), NSF does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions**§ 2520.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?**

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions**§ 2520.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?**

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance

with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–I [Reserved]**CHAPTER XXVI—NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

■ 258. Revise part 2600 to read as follows:

PART 2600—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

2600.100 Adoption of 2 CFR part 200.

2600.101 Indirect costs exception to 2 CFR 200.414.

2600.102 Additional NARA grant administration policies.

Authority: 5 U.S.C. 301; 44 U.S.C. 2103–04; 44 U.S.C. 2501–2506; 2 CFR part 200.

§ 2600.100 Adoption of 2 CFR part 200.

The National Archives and Records Administration (NARA), through its National Historical Publications and Records Commission (NHPRC), adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, with the additions and exceptions included in this part. This part gives regulatory effect to the OMB regulation for Federal awards issued by NARA. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 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 www.archives.gov/nhprc, and are included in grant opportunity announcements.

§ 2600.102 Additional NARA grant administration policies.

Grant recipients must also follow NARA grant administration policies and procedures set out in 36 CFR parts 1202, 1206, 1208, 1211, and 1212.

CHAPTER XXVII—SMALL BUSINESS ADMINISTRATION**PART 2700—NONPROCUREMENT DEBARMENT AND SUSPENSION**

■ 259. The authority citation for part 2700 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549

(3 CFR, 1986 Comp., p. 189); E.O. 12689 (3 CFR, 1989, 1986 Comp., p. 235); 15 U.S.C. 634(b)(6).

- 260. Revise §§ 2700.10 through 2700.30 to read as follows:

§ 2700.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Small Business Administration (SBA) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for SBA to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189); Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235); and section 2455 of the Federal Acquisition Streamlining Act of 1994, Public Law 103–355 (31 U.S.C. 6101 note).

§ 2700.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in an SBA suspension or debarment action;

(c) SBA debarment or suspension official; or

(d) SBA grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2700.30 What policies and procedures must I follow?

The SBA policies and procedures you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 2700.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, SBA policies and procedures are those in the OMB regulation.

- 261. Revise subparts B through D to read as follows:

Subpart B—Covered Transactions

§ 2700.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.22(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the SBA under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the SBA nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at 2 CFR 180.200(c) (see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2700.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You, as a participant, must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this part.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 2700.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

PART 2701—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

- 262. The authority citation for part 2701 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 2 CFR part 200.

- 263. Revise § 2701.1 to read as follows:

§ 2701.1 Adoption of 2 CFR part 200.

The U.S. Small Business Administration (SBA) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, with the additions and exceptions included in this part. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Small Business Administration. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

- 264. Revise the heading for § 2701.600 to read as follows:

§ 2701.600 Other program-specific regulations.

CHAPTER XXVIII—DEPARTMENT OF JUSTICE

PART 2800—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS BY THE DEPARTMENT OF JUSTICE

- 265. The authority citation for part 2800 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509; 28 U.S.C. 530C(a)(4); 42 U.S.C. 3789; 2 CFR part 200.

§ 2800.101 [Redesignated as § 2800.10]

- 266. Redesignate § 2800.101 as § 2800.10.

- 267. Revise newly redesignated § 2800.10 to read as follows:

§ 2800.10 Adoption of 2 CFR part 200.

The Department of Justice adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, except as otherwise may be provided by this part. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Justice. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. Except for the Department of Justice’s adoption of 2 CFR part 200, and unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference and thus to include any subsequent changes to the provision.

- 268. Revise part 2867 to read as follows:

PART 2867—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2867.10 What does this part do?

2867.20 To whom does this part apply?

2867.30 What policies and procedures must be followed?

Subpart A—General

2867.137 Who in the Department of Justice may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2867.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2867.332 What method must a participant use to pass requirements down to participants at lower tiers with whom the participant intends to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2867.437 What method must be used to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–J [Reserved]

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515–519; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2867.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Justice policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the Department of Justice to the OMB regulation for the Department of Justice, as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 2867.20 To whom does this part apply?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to any—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970 (as supplemented by subpart B of this part));

(b) Respondent in a Department of Justice suspension or debarment action;

(c) Department of Justice debarment or suspension official; or

(d) Department of Justice grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 2867.30 What policies and procedures must be followed?

The Department of Justice policies and procedures that must be followed are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 2867.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Justice policies and procedures are those in the OMB regulation.

Subpart A—General

§ 2867.137 Who in the Department of Justice may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Justice, the Attorney General or designee has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 2867.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), the Department of Justice does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2867.332 What method must a participant use to pass requirements down to participants at lower tiers with whom the participant intends to do business?

A participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 2867.437 What method must be used to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, the communication must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–J [Reserved]

CHAPTER XXIX—DEPARTMENT OF LABOR

PART 2900—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 269. The authority citation for part 2900 continues to read as follows:

Authority: 5 U.S.C. 301; 2 CFR 200.

■ 270. Revise § 2900.3 to read as follows:

§ 2900.3 Questioned cost.

In the Department of Labor, in addition to the regulation contained in 2 CFR 200.1, 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 or monitoring 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.

(d) Questioned costs are not an improper payment until reviewed and confirmed to be improper as defined in Office of Management and Budget (OMB) Circular A–123, Appendix C (see also the definition of improper payment in 2 CFR 200.1).

■ 271. Revise subparts B and C to read as follows:

Subpart B—General Provisions**§ 2900.4 Adoption of 2 CFR part 200.**

The Department of Labor adopts the OMB regulation “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities” (subparts A through F of 2 CFR part 200), as supplemented by this part, as Department of Labor policies and procedures for financial assistance administration. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Labor (DOL). The DOL also has programmatic and administrative regulations located in titles 20 and 29 of the CFR. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards**§ 2900.5 Federal awarding agency review of risk posed by applicants.**

In addition to the regulation set forth in 2 CFR 200.206(b), in evaluating risks of applicants, DOL also considers audits and monitoring reports containing findings and issues of noncompliance or questioned costs, in addition to reports and findings from audits performed under subpart F of 2 CFR part 200 or the reports and findings of any other available audits (see 2 CFR 200.206(b)).

■ 272. Revise §§ 2900.7 and 2900.8 to read as follows:

§ 2900.7 Federal payment.

In addition to the regulation set forth in 2 CFR 200.305(b), 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 regulation 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.

■ 273. Revise §§ 2900.10 and 2900.11 to read as follows:

§ 2900.10 Prior approval requests.

In addition to the regulation 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 (see 2 CFR 200.407).

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

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

■ 274. Revise §§ 2900.13 through 2900.15 to read as follows:

§ 2900.13 Intangible property.

In addition to the regulation set forth in 2 CFR 200.315(d), the Department of Labor requires intellectual property developed under a discretionary Federal award process to be in a format readily accessible and available for open licensing to the public. An open 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 recipient.

§ 2900.14 Financial reporting.

In addition to the regulation set forth in 2 CFR 200.328, 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 regulation set forth in 2 CFR 200.344(b), for Federal awards from the Department of Labor, the non-Federal entity must liquidate all financial obligations and/or accrued expenditures incurred under the Federal award. For non-Federal entities reporting on an accrual basis and operating on an expenditure period, unless otherwise noted in the grant agreement or cooperative agreement, the only liquidation that can occur during closeout is the liquidation of accrued expenditures (NOT financial obligations) for goods and/or services received during the grant period.

■ 275. Revise § 2900.16 to read as follows:

§ 2900.16 Prior written approval (prior approval).

In addition to the regulation 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 agreement or cooperative agreement, 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.

■ 276. Revise § 2900.18 to read as follows:

§ 2900.18 Contingency provisions.

In addition to the regulation set forth in 2 CFR 200.433(c), for Federal awards from the Department of Labor, excepted citations include 2 CFR 200.334 (retention requirements) and 200.335 (requests for records transfers).

■ 277. Revise part 2998 to read as follows:

PART 2998—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

2998.10 What does this part do?

2998.20 Does this part apply to me?

2998.30 What policies and procedures must I follow?

Subpart A—General

2998.137 Who in DOL may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

2998.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

2998.332 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

2998.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–J [Reserved]

Authority: 5 U.S.C. 301; sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 2998.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Labor (DOL) policies and procedures for non-procurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by DOL as supplemented

by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189); Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235); and section 2455 of the Federal Acquisition Streamlining Act of 1994, 103 (31 U.S.C. 6101 note).

§ 2998.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “non-procurement transaction” at 2 CFR 180.970);

(b) Respondent in a Department of Labor suspension or debarment action;

(c) Department of Labor debarment or suspension official; or

(d) Department of Labor grants officer, agreements officer, or other official authorized to enter into any type of non-procurement transaction that is a covered transaction.

§ 2998.30 What policies and procedures must I follow?

(a) The Department of Labor’s policies and procedures that you must follow are specified in:

(1) Each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180; and

(2) The supplement to each section of the OMB regulation that is found in this part under the same section number. (The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 2998.220.)

(b) For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, the Department of Labor’s policies and procedures are those in the OMB regulation.

Subpart A—General

§ 2998.137 Who in DOL may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Labor, the Secretary of Labor or designee has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135. If any designated official grants an exception, the exception must be in writing and state the reason(s) for deviating from the Government-wide policy in Executive Order 12549.

Subpart B—Covered Transactions

§ 2998.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

In addition to the contracts covered under 2 CFR 180.220(b), this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by the Department of Labor under a covered non-procurement transaction. This extends the coverage of the Department of Labor non-procurement suspension and debarment requirements to all lower tiers of subcontracts under covered non-procurement transactions, as permitted under the OMB regulation at 2 CFR 180.220(c) (see optional lower tier coverage in the figure in appendix A to 2 CFR part 180).

Subpart C—Responsibilities of Participants Regarding Transactions

§ 2998.332 What requirements must I pass down to persons at lower tiers with whom I intend to do business?

You, as a participant, must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 2998.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, and supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–J [Reserved]

CHAPTER XXX—DEPARTMENT OF HOMELAND SECURITY

■ 278. Revise and republish part 3000 to read as follows:

PART 3000—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

3000.10 What does this part do?

3000.20 Does this part apply to me?

3000.30 What policies and procedures must I follow?

Subpart A—General

3000.137 Who in the Department of Homeland Security may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

3000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

3000.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Department of Homeland Security Officials Regarding Transactions

3000.437 What method do I use to communicate to a participant the requirements described in the Office of Management and Budget regulation at 2 CFR 180.435?

Subparts E–I [Reserved]

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 6 U.S.C. 101 *et seq.*; E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3000.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Department of Homeland Security policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for the Department of Homeland Security as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3000.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a Department of Homeland Security suspension or debarment action;

(c) Department of Homeland Security debarment or suspension official; or

(d) Department of Homeland Security grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 3000.30 What policies and procedures must I follow?

The Department of Homeland Security policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220) as supplemented by § 3000.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Department of Homeland Security policies and procedures are those in the OMB regulation.

Subpart A—General

§ 3000.137 Who in the Department of Homeland Security may grant an exception to let an excluded person participate in a covered transaction?

Within the Department of Homeland Security (DHS), the Secretary of Homeland Security has delegated the authority to grant an exception to let an excluded person participate in a covered transaction to the Chief Financial Officer for each DHS component as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3000.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Department of Homeland Security extends coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts

under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3000.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant in a covered transaction must include a term or condition in any lower-tier covered transaction into which you enter, to require the participant of that transaction to—

- (a) Comply with subpart C of 2 CFR part 180; and
- (b) Include a similar term or condition in any covered transaction into which it enters at the next lower tier.

Subpart D—Responsibilities of Department of Homeland Security Officials Regarding Transactions

§ 3000.437 What method do I use to communicate to a participant the requirements described in the Office of Management and Budget regulation at 2 CFR 180.435?

You as a DHS component official must include a term or condition in each covered transaction into which you enter, to communicate to the participant the requirements to—

- (a) Comply with subpart C of 2 CFR part 180; and
- (b) Include a similar term or condition in any lower-tier covered transactions into which the participant enters.

Subparts E–I [Reserved]

PART 3001—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 279. The authority citation for part 3001 is revised to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701–707; 6 U.S.C. 101 *et seq.*; 2 CFR part 182.

■ 280. Revise §§ 3001.10 through 3001.30 to read as follows:

§ 3001.10 What does this part do?

This part requires that the award and administration of Department of Homeland Security (DHS) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

- (a) Adopts the OMB regulation (subparts A through F of 2 CFR part 182), as supplemented by this part, for DHS’s grants and cooperative agreements; and
- (b) Establishes DHS policies and procedures, as supplemented by this part, for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Government-wide implementing regulations.

§ 3001.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of a DHS grant or cooperative agreement; or
- (b) DHS awarding official.

§ 3001.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* This part supplements the OMB regulation in 2 CFR part 182 as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 3001.225	Who in DHS a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 3001.300	Who in DHS a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.400	§ 3001.400	What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation.
(4) 2 CFR 182.500	§ 3001.500	Who in DHS is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(5) 2 CFR 182.505	§ 3001.505	Who in DHS is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(6) 2 CFR 182.510	§ 3001.510	What actions the Federal Government will take against a recipient determined to have violated 2 CFR part 182, as implemented by this part.
(7) 2 CFR 182.605	§ 3001.605	What types of assistance are included in the definition of “award.”

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(8) None	§ 3001.661	What types of assistance are included in the definition of “reimbursable agreement.”

(c) Sections of the OMB regulation that this part does not supplement. For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, DHS policies and procedures are the same as those in the OMB regulation.

■ 281. Revise § 3001.400 to read as follows:

§ 3001.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR part 3001, which adopts the Government-wide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

PART 3002—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 282. The authority citation for part 3002 is revised to read as follows:

Authority: 31 U.S.C. 503; 6 U.S.C. 101 *et seq.*; 2 CFR part 200.

■ 283. Revise § 3002.10 to read as follows:

§ 3002.10 Adoption of 2 CFR part 200.

The Department of Homeland Security adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Homeland Security. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

CHAPTER XXXI—INSTITUTE OF MUSEUM AND LIBRARY SERVICES

■ 284. Revise part 3185 to read as follows:

PART 3185—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

- 3185.10 What does this part do?
- 3185.20 Does this part apply to me?
- 3185.30 What policies and procedures must I follow?

Subpart A—General

3185.137 Who in the IMLS may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

3185.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

3185.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

3185.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–I [Reserved]

Authority: 20 U.S.C. 9103(f); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3185.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Institute of Museum and Library Services (IMLS) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for IMLS to the OMB regulation for Federal awards issued by IMLS as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3185.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—
 (a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of

“nonprocurement transaction” at 2 CFR 180.970).

(b) Respondent in an IMLS suspension or debarment action.

(c) IMLS debarment or suspension official.

(d) IMLS grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 3185.30 What policies and procedures must I follow?

The IMLS policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 3185.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, IMLS policies and procedures are those in the OMB regulation.

Subpart A—General

§ 3185.137 Who in the IMLS may grant an exception to let an excluded person participate in a covered transaction?

The IMLS Director has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3185.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower-tier coverage in the figure in appendix A to 2 CFR part 180), IMLS does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3185.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3185.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–I [Reserved]

PART 3186—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 285. The authority citation for part 3186 continues to read as follows:

Authority: 41 U.S.C. 701–707.

■ 286. Revise §§ 3186.10 through 3186.30 to read as follows:

§ 3186.10 What does this part do?

This part requires that the award and administration of Institute of Museum and Library Services (IMLS) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—
 (a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for Federal awards issued by IMLS for the IMLS’s grants and cooperative agreements; and
 (b) Establishes IMLS policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with

the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 3186.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—
 (a) Recipient of an IMLS grant or cooperative agreement; or
 (b) IMLS awarding official.

§ 3186.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.
 (b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 3186.225	Whom in the IMLS a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 3186.300	Whom in the IMLS a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 3186.500	Who in the IMLS is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 3186.505	Who in the IMLS is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, IMLS policies and procedures are the same as those in the OMB regulation.

■ 287. Revise § 3186.400 to read as follows:

§ 3186.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free

workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 CFR part 3186, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

PART 3187—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 288. The authority citation for part 3187 continues to read as follows:

Authority: 20 U.S.C. 9101–9176, 9103(h); 20 U.S.C. 80r–5; 2 CFR part 200.

■ 289. Revise § 3187.1 to read as follows:

§ 3187.1 Adoption of 2 CFR part 200.

The Institute of Museum and Library Services (IMLS) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, with the additions that are provided in this part. This part gives regulatory effect to the OMB regulations and supplements the regulations as needed for IMLS. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

CHAPTER XXXII—NATIONAL ENDOWMENT FOR THE ARTS

■ 290. Revise part 3254 to read as follows:

PART 3254—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

3254.10 What does this part do?

3254.20 Does this part apply to me?

3254.30 What policies and procedures must I follow?

Subpart A—General

3254.137 Who in the NEA may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

3254.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

3254.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

3254.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–I [Reserved]

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3254.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Endowment for the Arts (NEA) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3254.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970).

(b) Respondent in a NEA suspension or debarment action.

(c) NEA debarment or suspension official.

(d) NEA grants officer, agreements officer, or other official authorized to

enter into any type of nonprocurement transaction that is a covered transaction.

§ 3254.30 What policies and procedures must I follow?

The NEA policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 3254.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NEA policies and procedures are those in the OMB regulation.

Subpart A—General

§ 3254.137 Who in the NEA may grant an exception to let an excluded person participate in a covered transaction?

The NEA Chairman has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3254.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see options lower tier coverage in the figure in appendix A to 2 CFR part 180), NEA does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3254.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3254.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR

180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–I [Reserved]

■ 291. Revise part 3255 to read as follows:

PART 3255—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

3255.1 Adoption of 2 CFR part 200.

3255.2 [Reserved]

Authority: 5 U.S.C. 301; 20 U.S.C. 954; 2 CFR part 200.

§ 3255.1 Adoption of 2 CFR part 200.

The National Endowment for the Arts (NEA) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the NEA. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 3255.2 [Reserved]

PART 3256—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 292. The authority citation for part 3256 is revised to read as follows:

Authority: 41 U.S.C. 8101 *et seq.*

■ 293. Revise §§ 3256.100 through 3256.110 to read as follows:

§ 3256.100 What does this part do?

This part requires that the award and administration of National Endowment for the Arts (NEA) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101–8106, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the NEA’s grants and cooperative agreements; and

(b) Establishes NEA policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 8106 for Governmentwide implementing regulations.

§ 3256.105 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

(a) Recipient of an NEA grant or cooperative agreement; or

(b) NEA awarding official.

§ 3256.110 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in the applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In

implementing the regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 3256.200	Whom in the NEA a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 3256.300	Whom in the NEA a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 3256.500	Who in the NEA is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 3256.505	Who in the NEA is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, the NEA’s policies and procedures are the same as those in the OMB regulation.

■ 294. Revise § 3256.400 to read as follows:

§ 3256.400 What method do I use as an agency awarding official to obtain a recipient’s agreement to comply with the OMB regulation?

To obtain a recipient’s agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of this part, which adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 8101–8106).

CHAPTER XXXIII—NATIONAL ENDOWMENT FOR THE HUMANITIES

■ 295. Revise part 3369 to read as follows:

PART 3369—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

3369.10 What does this part do?

3369.20 Does this part apply to me?

3369.30 What policies and procedures must I follow?

Subpart A—General

3369.137 Who in the NEH may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

3369.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

3369.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

3369.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–I [Reserved]

Authority: 20 U.S.C. 959(a)(1); Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3369.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the National Endowment for the Humanities (NEH) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for Federal awards issued by the NEH to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3

CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3369.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970).

(b) Respondent in a NEH suspension or debarment action.

(c) NEH debarment or suspension official.

(d) NEH grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 3369.30 What policies and procedures must I follow?

The NEH policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 3369.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, NEH policies and procedures are those in the OMB regulation.

Subpart A—General

§ 3369.137 Who in the NEH may grant an exception to let an excluded person participate in a covered transaction?

The NEH Chairman has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 3369.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), NEH does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 3369.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180, as supplemented by this subpart.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 3369.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–I [Reserved]

PART 3373—REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

■ 296. The authority citation for part 3373 continues to read as follows:

Authority: 41 U.S.C. 701–707.

■ 297. Revise §§ 3373.10 through 3373.30 to read as follows:

§ 3373.10 What does this part do?

This part requires that the award and administration of National Endowment for the Humanities (NEH) grants and cooperative agreements comply with Office of Management and Budget (OMB) regulation implementing the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701–707, as amended, hereinafter referred to as “the Act”) that applies to grants. This part—

(a) Gives regulatory effect to the OMB regulation (subparts A through F of 2 CFR part 182) for the NEH's grants and cooperative agreements; and

(b) Establishes NEH policies and procedures for compliance with the Act that are the same as those of other Federal agencies, in conformance with the requirement in 41 U.S.C. 705 for Governmentwide implementing regulations.

§ 3373.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through F of 2 CFR part 182 (see 2 CFR 182.115(b)) apply to you if you are a—

- (a) Recipient of a NEH grant or cooperative agreement; or
- (b) NEH awarding official.

§ 3373.30 What policies and procedures must I follow?

(a) *General.* You must follow the policies and procedures specified in applicable sections of the OMB regulation in subparts A through F of 2 CFR part 182, as implemented by this part.

(b) *Specific sections of OMB regulation that this part supplements.* In implementing the OMB regulation in 2 CFR part 182, this part supplements four sections of the OMB regulation, as shown in the following table. For each of those sections, you must follow the policies and procedures in the OMB regulation, as supplemented by this part.

Section of OMB regulation	Section in this part where supplemented	What the supplementation clarifies
(1) 2 CFR 182.225(a)	§ 3373.225	Whom in the NEH a recipient other than an individual must notify if an employee is convicted for a violation of a criminal drug statute in the workplace.
(2) 2 CFR 182.300(b)	§ 3373.300	Whom in the NEH a recipient who is an individual must notify if he or she is convicted of a criminal drug offense resulting from a violation occurring during the conduct of any award activity.
(3) 2 CFR 182.500	§ 3373.500	Who in the NEH is authorized to determine that a recipient other than an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.
(4) 2 CFR 182.505	§ 3373.505	Who in the NEH is authorized to determine that a recipient who is an individual is in violation of the requirements of 2 CFR part 182, as implemented by this part.

(c) *Sections of the OMB regulation that this part does not supplement.* For any section of OMB regulation in subparts A through F of 2 CFR part 182 that is not listed in paragraph (b) of this section, NEH policies and procedures are the same as those in the OMB regulation.

■ 298. Revise § 3373.400 to read as follows:

§ 3373.400 What method do I use as an agency awarding official to obtain a recipient's agreement to comply with the OMB regulation?

To obtain a recipient's agreement to comply with applicable requirements in the OMB regulation at 2 CFR part 182, you must include the following term or condition in the award:

Drug-free workplace. You as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR part 3373, which

adopts the Governmentwide implementation (2 CFR part 182) of sec. 5152–5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100–690, Title V, Subtitle D; 41 U.S.C. 701–707).

■ 299. Revise part 3374 to read as follows:

PART 3374—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.
3374.1 Adoption of 2 CFR part 200.
3374.2 [Reserved]

Authority: 5 U.S.C. 301, 20 U.S.C. 956, 2 CFR part 200.

§ 3374.1 Adoption of 2 CFR part 200.

The National Endowment for the Humanities (NEH) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by NEH. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 3374.2 [Reserved]

CHAPTER XXXIV—DEPARTMENT OF EDUCATION

PART 3474—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 300. The authority citation for part 3474 continues to read as follows:

Authority: 20 U.S.C. 1221e–3, 3474; 42 U.S.C. 2000bb *et seq.*; E.O. 13279, 67 FR 77141, 3 CFR, 2002 Comp., p. 258; E.O. 13559, 75 FR 71319, 3 CFR, 2010 Comp., p. 273; E.O. 13831, 83 FR 20715, 3 CFR, 2018 Comp., p. 806; and 2 CFR part 200, unless otherwise noted.

§ 3474.1 [Redesignated as § 3474.3]

■ 301. Redesignate § 3474.1 as § 3474.3.
■ 302. Revise newly redesignated § 3474.3 to read as follows:

§ 3474.3 Adoption of 2 CFR part 200.

The Department of Education adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200, except for 2 CFR 200.102(a) and 200.208. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Education. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

PART 3485—NONPROCUREMENT DEBARMENT AND SUSPENSION

■ 303. The authority citation for part 3485 continues to read as follows:

Authority: E.O. 12549 (3 CFR 1986 Comp., p. 189); E.O. 12689 (3 CFR 1989 Comp., p. 235); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); 20 U.S.C. 1082, 1094, 1221e–3, and 3474, unless otherwise noted.

■ 304. Revise § 3485.12 to read as follows:

§ 3485.12 What does this part do?

(a)(1) The Department of Education (the “Department” or “ED”) adopts subparts A through I of the Office of Management and Budget (OMB) regulation in 2 CFR part 180. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Department of Education and supplements the regulation as needed for the Department. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, part 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, part 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

(2) This part contains only those sections that include supplements to the regulation in part 180 of this title and new sections needed to implement the OMB regulation for the Department’s programs. In those sections of the OMB regulation that are supplemented, the section in this part includes both the text of the OMB regulation that is not affected by the change and any additional paragraphs that need to be added to the OMB regulation. For example, § 180.220 of this title contains only paragraphs (a) and (b). The text of § 3485.220, which supplements § 180.220, includes both the text of paragraph (a) and (b) of § 180.220 and the text of added paragraph (c).

(3) In those sections in part 180 of this title that do not have paragraph designations and that the Department supplements, the section in this part implementing the OMB regulation designates the undesignated paragraph from part 180 as paragraph (a) and the first supplemental paragraph as paragraph (b). For example, § 180.330 of this title includes an undesignated lead in paragraph and paragraphs (a) and (b). In § 3485.330, the undesignated paragraph in § 180.330 is designated paragraph (a) and paragraphs (a) and (b) are designated paragraphs (1) and (2). The added paragraphs are designated paragraphs (b) and (c).

(b) The authority for all the provisions in part 180 of this title as adopted in this part are listed in the authority for this part.

■ 305. Revise subpart B to read as follows:

Subpart B—Covered Transactions

§ 3485.220 Are any procurement contracts included as covered transactions?

(a) Covered transactions under this part—

(1) Do not include any procurement contracts awarded directly by a Federal agency; but

(2) Do include some procurement contracts awarded by non-Federal participants in nonprocurement covered transactions.

(b) Specifically, a contract for goods or services is a covered transaction if any of the following applies:

(1) The contract is awarded by a participant in a nonprocurement transaction that is covered under § 180.210 of this title, and the amount of the contract is expected to equal or exceed \$25,000.

(2) The contract requires the consent of an official of a Federal agency. In that case, the contract, regardless of the amount, always is a covered transaction, and it does not matter who awarded it. For example, it could be a subcontract awarded by a contractor at a tier below a nonprocurement transaction, as shown in appendix A to this part.

(3) The contract is for federally-required audit services.

(4) The contract is to perform services as a third party servicer in connection with a title IV, HEA program.

(c) In addition to the contracts covered under § 180.220(b) of this title, this part applies to any contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the contract is to be funded or provided by ED under a covered nonprocurement transaction and the amount of the contract is expected to equal or exceed \$25,000. This extends the coverage of the ED nonprocurement suspension and debarment requirements to all lower tiers of subcontracts under covered nonprocurement transactions, as permitted under the OMB regulation at § 180.220(c) of this title (see optional lower tier coverage in the figure in appendix A to this part).

CHAPTER XXXV—EXPORT-IMPORT BANK OF THE UNITED STATES**PART 3513—NONPROCUREMENT DEBARMENT AND SUSPENSION**

■ 306. The authority citation for part 3513 continues to read as follows:

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327; E.O. 12549, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 3 CFR, 1989 Comp., p. 235.

■ 307. Revise §§ 3513.10 through 3513.30 to read as follows:

§ 3513.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Export Import Bank of the United States (Ex-Im Bank) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3513.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part 180 (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970, as supplemented by subpart B of this part).

(b) Respondent in an Ex-Im Bank suspension or debarment action.

(c) Ex-Im Bank debarment or suspension official.

(d) Ex-Im Bank grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 3513.30 What policies and procedures must I follow?

Ex-Im Bank policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 3513.220.

For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Ex-Im Bank policies and procedures are those in the OMB regulation.

■ 308. Revise § 3513.220 to read as follows:

§ 3513.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), Ex-Im Bank does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement under a covered nonprocurement transaction.

■ 309. Revise § 3513.437 to read as follows:

§ 3513.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you must include a term or condition in the transaction that requires the participant’s compliance with subpart C of 2 CFR part 180, as supplemented by subpart C of this part, and requires the participant to include a similar term or condition in lower-tier covered transactions.

CHAPTER XXXVI—OFFICE OF NATIONAL DRUG CONTROL POLICY, EXECUTIVE OFFICE OF THE PRESIDENT

■ 310. Revise part 3603 to read as follows:

PART 3603—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

3603.10 Adoption of 2 CFR part 200.

3603.11 [Reserved]

Authority: 21 U.S.C. 1706; 21 U.S.C. 1521–1548, 1701, 1703(d), 1703(f), and 2001–2003; 2 CFR part 200.

§ 3603.10 Adoption of 2 CFR part 200.

The Executive Office of the President, Office of National Drug Control Policy (ONDCP) adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the ONDCP. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 3603.11 [Reserved]**CHAPTER XXXVII—PEACE CORPS**

■ 311. Revise part 3700 to read as follows:

PART 3700—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

3700.10 What does this part do?

3700.20 Does this part apply to me?

3700.30 What policies and procedures must I follow?

3700.137 Who in the Peace Corps may grant an exception to let an excluded person participate in a covered transaction?

3700.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

3700.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

3700.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

Authority: 22 U.S.C. 2503(b); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3700.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the Peace Corps policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the Peace Corps to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension” (3 CFR, 1986 Comp., p. 189), Executive Order 12689, “Debarment and Suspension” (3 CFR, 1989 Comp., p. 235), and 31 U.S.C. 6101 note (section 2455, Pub. L. 103–355, 108 Stat. 3327).

§ 3700.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a Peace Corps suspension or debarment action;

(c) Peace Corps debarment or suspension official; or

(d) Peace Corps grants officer, agreements officer, or other official authorized to enter into any type of

nonprocurement transaction that is a covered transaction.

§ 3700.30 What policies and procedures must I follow?

The Peace Corps policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 3700.220). For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in this part, Peace Corps policies and procedures are those in the OMB regulation.

§ 3700.137 Who in the Peace Corps may grant an exception to let an excluded person participate in a covered transaction?

The Director of the Peace Corps has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

§ 3700.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Although the OMB regulation at 2 CFR 180.220(c) allows a Federal agency to do so (also see optional lower tier coverage in the figure in appendix A to 2 CFR part 180), Peace Corps does not extend coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts under a covered nonprocurement transaction.

§ 3700.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

You as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180.

§ 3700.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you as an agency official must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, and requires the participant to include a similar term or condition in lower-tier covered transactions.

■ 312. Add part 3701 to read as follows:

PART 3701—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

3701.10 Adoption of 2 CFR part 200.

3701.11 [Reserved]

Authority: 22 U.S.C. 2503(b); sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 3701.10 Adoption of 2 CFR part 200.

The Peace Corps adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the Peace Corps. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. Peace Corps may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Peace Corps, including additions or clarifications, are set forth in this chapter.

§ 3701.11 [Reserved]

CHAPTER LVIII—ELECTION ASSISTANCE COMMISSION

■ 313. Revise part 5800 to read as follows:

PART 5800—NONPROCUREMENT DEBARMENT AND SUSPENSION

Sec.

5800.10 What does this part do?

5800.20 Does this part apply to me?

5800.30 What policies and procedures must I follow?

Subpart A—General

5800.137 Who at the Commission may grant an exception to let an excluded person participate in a covered transaction?

Subpart B—Covered Transactions

5800.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Subpart C—Responsibilities of Participants Regarding Transactions

5800.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

5800.437 What method do I use to communicate to a participant the

requirements described in the OMB regulation at 2 CFR 180.435?

Subparts E–H [Reserved]

Subpart I—Definitions

5800.930 Debarring official.

5800.970 Nonprocurement transaction.

5800.1010 Suspending official.

Subpart J [Reserved]

Authority: Sec. 2455, Pub. L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note); E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189; E.O. 12689, 54 FR 34131, 3 CFR, 1989 Comp., p. 235.

§ 5800.10 What does this part do?

This part adopts the Office of Management and Budget (OMB) regulation in subparts A through I of 2 CFR part 180, as supplemented by this part, as the U.S. Election Assistance Commission (“the Commission” or “EAC”) policies and procedures for nonprocurement debarment and suspension. This part gives regulatory effect for the Commission to the OMB regulation as supplemented by this part. This part satisfies the requirements in section 3 of Executive Order 12549, “Debarment and Suspension”, and 31 U.S.C. 6101 note.

§ 5800.20 Does this part apply to me?

This part and, through this part, pertinent portions of the OMB regulation in subparts A through I of 2 CFR part (see table 2 to 2 CFR 180.100(b)) apply to you if you are a—

(a) Participant or principal in a “covered transaction” (see subpart B of 2 CFR part 180 and the definition of “nonprocurement transaction” at 2 CFR 180.970);

(b) Respondent in a Commission suspension or debarment action;

(c) Commission debarment or suspension official; or

(d) Commission grants officer, agreements officer, or other official authorized to enter into any type of nonprocurement transaction that is a covered transaction.

§ 5800.30 What policies and procedures must I follow?

The Commission policies and procedures that you must follow are the policies and procedures specified in each applicable section of the OMB regulation in subparts A through I of 2 CFR part 180, as that section is supplemented by the section in this part with the same section number. The contracts that are covered transactions, for example, are specified by 2 CFR 180.220 as supplemented by § 5800.220. For any section of OMB regulation in subparts A through I of 2 CFR part 180 that has no corresponding section in

this part, Commission policies and procedures are those in the OMB regulation.

Subpart A—General

§ 5800.137 Who at the Commission may grant an exception to let an excluded person participate in a covered transaction?

The Commission's Contracting Officer has the authority to grant an exception to let an excluded person participate in a covered transaction, as provided in the OMB regulation at 2 CFR 180.135.

Subpart B—Covered Transactions

§ 5800.220 What contracts and subcontracts, in addition to those listed in 2 CFR 180.220, are covered transactions?

Pursuant to 2 CFR 180.220(c), the Commission extends coverage of nonprocurement suspension and debarment requirements beyond first-tier procurement contracts to include any subcontract.

Subpart C—Responsibilities of Participants Regarding Transactions

§ 5800.332 What methods must I use to pass requirements down to participants at lower tiers with whom I intend to do business?

If a lower-tier transaction is covered pursuant to § 5800.220, you as a participant must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of 2 CFR part 180.

Subpart D—Responsibilities of Federal Agency Officials Regarding Transactions

§ 5800.437 What method do I use to communicate to a participant the requirements described in the OMB regulation at 2 CFR 180.435?

To communicate to a participant the requirements described in 2 CFR 180.435, you as an agency official must include a term or condition in the transaction that requires the participant's compliance with subpart C of 2 CFR part 180, and requires the participant to include a similar term or condition in lower-tier covered transactions.

Subparts E–H [Reserved]

Subpart I—Definitions

§ 5800.930 Debarring official.

For the Commission, the debarring official for all nonprocurement transactions is the Commission's Contracting Officer. In the case of a vacancy in the position of the Contracting Officer, the alternate debarring official is the Chief Financial Officer.

§ 5800.970 Nonprocurement transaction.

While the Commission treats all payments made to States under 42 U.S.C. 15301, 15302 and 15401 as grants, this part does not apply to grants made to States and political subdivisions therein.

§ 5800.1010 Suspending official.

For the Commission, the debarring official for all nonprocurement transactions is the Commission's Contracting Officer. In the case of a vacancy in the position of the Contracting Officer, the alternate debarring official is the Chief Financial Officer.

Subpart J [Reserved]

PART 5801—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 314. The authority citation for part 5801 continues to read as follows:

Authority: 2 CFR part 200.

■ 315. Revise § 5801.10 to read as follows:

§ 5801.10 Adoption of 2 CFR part 200.

The U.S. Election Assistance Commission adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the U.S. Election Assistance Commission. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

CHAPTER LIX—GULF COAST ECOSYSTEM RESTORATION COUNCIL

■ 316. Revise part 5900 to read as follows

PART 5900—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

5900.10 Adoption of 2 CFR part 200.

5900.11 [Reserved]

Authority: 5 U.S.C. 301; 33 U.S.C. 1321(t)(2); 2 CFR part 200.

§ 5900.10 Adoption of 2 CFR part 200.

The Gulf Coast Ecosystem Restoration Council adopts the Office of Management and Budget (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Gulf Coast Ecosystem Restoration Council. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 5900.11 [Reserved]

CHAPTER LX—FEDERAL COMMUNICATIONS COMMISSION

■ 317. Revise part 6000 to read as follows

PART 6000—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

6000.1 Adoption of 2 CFR part 200.

6000.2 [Reserved]

Authority: 47 U.S.C. 154(i), 1752(b)(10)(C); 2 CFR part 200.

§ 6000.1 Adoption of 2 CFR part 200.

Except as otherwise may be provided by this part, the Federal Communications Commission adopts the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth at 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards issued by the Federal Communications Commission. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200.

§ 6000.2 [Reserved]

■ 318. Add chapter LXI (consisting of parts 6100 through 6199) to subtitle B to read as follows:

CHAPTER LXI—CONSUMER PRODUCT SAFETY COMMISSION**PART 6100—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS****PARTS 6101–6199 [RESERVED]****PART 6100—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

Sec.

6100.10 Adoption of 2 CFR part 200.

6100.11 [Reserved]

Authority: 15 U.S.C. 2054(c), 2090(a), and 8004(b)(2).

§ 6100.10 Adoption of 2 CFR part 200.

The Consumer Product Safety Commission adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the Consumer Product Safety Commission. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Consumer Product Safety Commission may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Consumer Product Safety Commission, including additions or clarifications, are set forth in this chapter.

§ 6100.11 [Reserved]**PARTS 6101–6199 [RESERVED]**

■ 319. Add chapter LXII (consisting of parts 6200 through 6299) to subtitle B to read as follows:

CHAPTER LXII—DELTA REGIONAL AUTHORITY**PART 6200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS****PARTS 6201–6299 [RESERVED]****PART 6200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

Sec.

6200.10 Adoption of 2 CFR part 200.

6200.11 [Reserved]

Authority: 7 U.S.C. 2009aa–1 *et seq.*; Pub. L. 106–554, 114 Stat. 2763.

§ 6200.10 Adoption of 2 CFR part 200.

(a) The Delta Regional Authority adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the Delta Regional Authority.

(b) See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Delta Regional Authority may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Delta Regional Authority, including additions or clarifications, are set forth in this chapter.

§ 6200.11 [Reserved]**PARTS 6201–6299 [RESERVED]**

■ 320. Add chapter LXIII (consisting of parts 6300 through 6399) to subtitle B to read as follows:

CHAPTER LXIII—APPRAISAL SUBCOMMITTEE OF THE FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL**PART 6300—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS****PARTS 6301–6399 [RESERVED]****PART 6300—THE UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS**

Sec.

6300.10 Adoption of 2 CFR part 200.

6300.11 [Reserved]

Authority: 12 U.S.C. 3335, 12 U.S.C. 3338(b)(4) and (5), 2 CFR part 200.

§ 6300.10 Adoption of 2 CFR part 200.

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council (the Appraisal Subcommittee) adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the Appraisal Subcommittee. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Appraisal Subcommittee may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Appraisal Subcommittee, including additions or clarifications, are set forth in this chapter.

§ 6300.11 [Reserved]**PARTS 6301–6399 [RESERVED]**

■ 321. Add chapter LXIV (consisting of parts 6400 through 6499) to subtitle B to read as follows:

CHAPTER LXIV—MARINE MAMMAL COMMISSION**PART 6400—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS****PARTS 6401–6499 [RESERVED]**

PART 6400—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

6400.10 Adoption of 2 CFR part 200.
6400.11 [Reserved]

Authority: 16 U.S.C. 1401 *et seq.*; 2 CFR part 200.

§ 6400.10 Adoption of 2 CFR part 200.

The Marine Mammal Commission adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards made by the Marine Mammal Commission. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Marine Mammal Commission may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Marine Mammal Commission, including additions or clarifications, will be set forth in this chapter.

§ 6400.11 [Reserved]

PARTS 6401–6499 [Reserved]

■ 322. Add chapter LXV (consisting of parts 6500 through 6599) to subtitle B to read as follows:

CHAPTER LXV—MILLENNIUM CHALLENGE CORPORATION

PART 6500—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

PARTS 6501–6599 [Reserved]

PART 6500—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

6500.10 Adoption of 2 CFR part 200.
6500.11 [Reserved]

Authority: 22 U.S.C. 84.

§ 6500.10 Adoption of 2 CFR part 200.

The Millennium Challenge Corporation (MCC) adopts the Office of Management and Budget's (OMB) regulation in 2 CFR part 200, except for issuance of funding to or in support of candidate and eligible countries as determined by MCC under the authority

of its authorizing statute, as amended. This part gives regulatory effect to the OMB regulation for Federal awards made by the Millennium Challenge Corporation, excepting those awards to or in support of candidate and eligible countries as determined by MCC under the authority of its authorizing statute, as amended. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The Millennium Challenge Corporation may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the Millennium Challenge Corporation, including additions or clarifications, are set forth in this chapter. Publicly available policies, processes, and rule for administrative requirements, cost principles, and audit requirements for awards to or in support of candidate and eligible countries can be found at <https://www.mcc.gov/resources>.

§ 6500.11 [Reserved]

PARTS 6501–6599 [Reserved]

■ 323. Add chapter LXVI (consisting of parts 6600 through 6699) to subtitle B to read as follows:

CHAPTER LXVI—NATIONAL CREDIT UNION ADMINISTRATION

PART 6600—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

PARTS 6601–6699 [Reserved]

PART 6600—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

Sec.

6600.10 Adoption of 2 CFR part 200.
6600.15 Other statutory and regulatory requirements.
6600.102 Exceptions.

Authority: 12 U.S.C. 1756, 1757, 1766, 1772c–1, 1782, 1784, 1785, 1786, 2 CFR part 200.

§ 6600.10 Adoption of 2 CFR part 200.

Except as otherwise may be provided by this chapter, the National Credit Union Administration (NCUA) adopts the Office of Management and Budget's (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

set forth at 2 CFR part 200. This part gives regulatory effect to the OMB regulation for Federal awards administered by the NCUA. See 2 CFR 200.110(a) regarding the process for amending 2 CFR part 200. The NCUA may amend its adoption of 2 CFR part 200 if agency-specific additions, clarifications, or exceptions to the Government-wide policies and procedures are required by Federal statute or are approved by OMB. See 2 CFR 200.106. Any supplements to the OMB regulation as needed for the NCUA, including additions or clarifications, are set forth in this chapter.

§ 6600.15 Other statutory and regulatory requirements.

Pursuant to 12 U.S.C. 1772c–1, program-specific regulations governing the Community Development Revolving Loan Fund for Credit Unions (CDRLF) may be found in 12 CFR part 705. These program-specific regulations supplement 2 CFR part 200. NCUA policies concerning CDRLF awards, including notices, award terms and conditions, and regulations, are available on-line at www.ncua.gov. See 2 CFR 200.101(d).

§ 6600.102 Exceptions.

(a) *Statutory or regulatory exceptions.* The NCUA may adjust requirements to a class of Federal awards if that requirement is specifically authorized or required by a Federal statute or regulation adopted in the Code of Federal Regulations after opportunity for public comment, except for the requirements in 2 CFR part 200, subpart F. Consistent with 2 CFR 200.101(d) and 200.102, such adjustments may be set forth in funding opportunities and NCUA award documents.

(b) *Urgent awards.* Except for those requirements imposed by statute or 2 CFR part 200, subpart F, the NCUA may adjust requirements when making Federal awards on an urgent or emergency basis under 12 CFR 705.8.

(c) *Federal payment.* Notwithstanding 2 CFR 200.305(d), the Federal Credit Union Act and the NCUA regulations at 12 CFR 705.7(g) govern the disbursement and deposit of CDRLF awards.

(d) *Appeals.* Notwithstanding 2 CFR 200.342, the Federal Credit Union Act and the NCUA regulations at 12 CFR 705.10 govern appeals for non-qualification and appeals of technical assistance grant reimbursement denials.

PARTS 6601–6699 [Reserved]

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