

COORDINATION PACKAGE

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REQUESTED COORDINATIONS

Coordinations are requested from DoD organizations identified below on DoD's submission of the interim final rule on pages 3-8.

ODGC(A&L) _____	DATE _____
ODCMO/AD _____	DATE _____
ODIG(P&O) _____	DATE _____
ODCFO _____	DATE _____
DPAP _____	DATE _____
DASA(P) _____	DATE _____
CNR _____	DATE _____
SAF/AQC _____	DATE _____

Explanation of DoD's Approach to Implementing the Guidance at 2 CFR Part 200

- DoD's implementation will be accomplished in two phases.
- A first phase is needed because:
 - OMB wants agencies' implementations to be in effect in December 2014, too soon for DoD to do the major update of the DoD Grant and Agreement Regulations (DoDGARs) needed to properly implement the guidance; and
 - It is in DoD's interest to have requirements for recipients in DoD awards as uniform as possible with requirements DoD recipients see in other agencies' awards (i.e., varying only where we and the other agencies deliberately intend to differ).
- That first phase is regulatory direction to DoD Components stating that the OMB guidance governs requirements for recipients in terms and conditions of awards made: (1) on or after the date the guidance specifies; and (2) to types of recipients subject to the guidance.
 - Given enough time, DoD would issue that direction as part of a major DoDGARs update that would include removing two parts implementing OMB Circulars A-110 and A-102.
 - The first phase instead uses deviations from those two parts on an interim basis, pending their later removal. Removing the parts now would cause collateral damage to other DoDGARs parts, which implement statutes and address matters beyond those covered by the OMB guidance (e.g., awards to for-profits and types of agreements other than grants and cooperative agreements).
- The first phase also includes policies from current DoD regulations that vary from wording in the new guidance. OMB staff stated that an agency could do so if the policies were in regulations previously cleared by OMB and adopted after public comment.
- The second phase is the comprehensive implementation DoD needs, unlike agencies that are taking OMB's suggestion to adopt the guidance and may address details in subregulatory issuances. This is a major undertaking that will take time to do well. In way of explanation:
 - DoD has about 120 awarding and administering offices around the U.S. and abroad that look to agency regulations for what they need to do, a difference from agencies that guide staff through subregulatory issuances that may affect recipient requirements.
 - For years after DoD adopted the previous A-110, recipients complained about DoD Components' needlessly different requirements and DoD Components complained that the adopted A-110 was very confusing, revealing the need to better implement OMB circulars by more clearly stating requirements and addressing terms and conditions.
 - Clearly stating requirements will involve reorganizing content of the guidance and using different wording when necessary to convey related but different requirements to various audiences—e.g., DoD awarding officials, post-award administrators, and recipients. This is something that can be done in a proposed rule given more time but not in the interim final rule OMB wants to put in place before December 26, 2014.
 - The second phase will also involve significant updates to the DoDGARs as a whole.

Department of Defense

Office of the Secretary

2 CFR Part 1103

RIN:

Billing Code:

For the reasons set forth in the common preamble, Part 1103 of Title 2, Chapter XI of the Code of Federal Regulations is added to read as follows:

**PART 1103–INTERIM GRANTS AND COOPERATIVE AGREEMENTS
IMPLEMENTATION OF GUIDANCE IN 2 CFR PART 200, “UNIFORM
ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT
REQUIREMENTS FOR FEDERAL AWARDS”**

Sec.

Subpart A - Interim Implementation of Guidance in 2 CFR Part 200

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

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

§1103.200 Exception for small awards.

§1103.205 Timing of payments made using the reimbursement method.

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

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

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

§1103.225 Debt collection.

Subpart C-Definitions of Terms Used in this Part

§1103.300 DoD Components.

§1103.305 DoD Grant and Agreement Regulations.

§1103.310 Small award.

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

Subpart A-Interim Implementation of Guidance in 2 CFR Part 200

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

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

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

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

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

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

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

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

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

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

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

§1103.200 Exception for small awards.

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

§1103.205 Timing of payments made using the reimbursement method.

In DoD Components' awards to institutions of higher education, hospitals, and other nonprofit organizations, the terms and conditions implementing the provisions of paragraph 200.305(b)(3) of 2 CFR part 200 concerning timing of payments when the reimbursement method is used must specify that the DoD payment office generally makes payment within 30 calendar days after receipt of the request for reimbursement by the office designated to receive the request, unless the request is reasonably believed to be improper. This substitution of "generally makes payment" for "must make payment" maintains long-standing policy established in paragraph 32.22(e)(1) of 32 CFR part 32.

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

In award terms and conditions implementing the guidance in paragraph 200.313(d) of 2 CFR part 200 on procedural requirements for a recipient's equipment management system, DoD Components must:

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

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

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

In DoD Components' awards to institutions of higher education, hospitals, and other nonprofit organizations, the award terms and conditions implementing the guidance in paragraph 200.315(a) of 2 CFR part 200 on intangible property must exclude intangible property developed or produced under an award or subaward. Doing so maintains long-standing policy established in paragraph 32.36(e) of 32 CFR part 32.

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

In award terms and conditions implementing the guidance in paragraph 200.318(h) of 2 CFR part 200 on awarding contracts only to responsible entities, DoD Components must require recipients to comply with DoD's implementation in 2 CFR part 1125 of OMB guidance on nonprocurement debarment and suspension (2 CFR part 180). Doing so maintains long-standing policy established in those two parts of 2 CFR and in paragraph 32.44(d) of 32 CFR part 32, as well as compliance with Executive Orders 12549 and 12689.

§1103.225 Debt collection.

In award terms and conditions implementing the guidance in section 200.345 of 2 CFR part 200 on collection of amounts due, DoD Components must inform recipients that DoD post-award administration offices follow procedures set forth in section 22.820 of 32 CFR part 22 for issuing demands for payment and transferring debts for collection, and that a recipient will be informed about specific procedures and timeframes affecting it through the written notices of grants officers' decisions and demands for payment. Doing so maintains long-standing policy established in paragraph 32.73(c) of 32 CFR part 32.

Subpart C-Definitions of Terms Used in this Part

§1103.300 DoD Components.

The Office of the Secretary of Defense, the Military Departments, and all Defense Agencies, DoD Field Activities, and other entities within the Department of Defense that are authorized to award or administer grants, cooperative agreements, and other non-procurement transactions subject to the DoD Grants and Agreement Regulations.

§1103.305 DoD Grant and Agreement Regulations.

The regulations in Chapter I, Subchapter C of Title 32, Code of Federal Regulations, and Chapter XI of Title 2, Code of Federal Regulations.

§1103.310 Small award.

An award not exceeding the simplified acquisition threshold.

Signature

Name, Title