

OMB Guidance

§ 200.104

(5) Entitlement awards under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk Program (section 3 of the Act, 42 U.S.C. 1772);

(ii) School Breakfast Program (section 4 of the Act, 42 U.S.C. 1773); and

(iii) State Administrative Expenses (section 7 of the Act, 42 U.S.C. 1776).

(6) Entitlement awards for State Administrative Expenses under The Food and Nutrition Act of 2008 (section 16 of the Act, 7 U.S.C. 2025).

(7) Non-discretionary Federal awards under the following non-entitlement programs:

(i) Special Supplemental Nutrition Program for Women, Infants and Children (section 17 of the Child Nutrition Act of 1966) 42 U.S.C. 1786;

(ii) The Emergency Food Assistance Programs (Emergency Food Assistance Act of 1983) 7 U.S.C. 7501 note; and

(iii) Commodity Supplemental Food Program (section 5 of the Agriculture and Consumer Protection Act of 1973) 7 U.S.C. 612c note.

[85 FR 49536, Aug. 13, 2020, as amended at 86 FR 10439, Feb. 22, 2021]

§ 200.102 Exceptions.

(a) With the exception of subpart F of this part, OMB may allow exceptions for classes of Federal awards or non-Federal entities subject to the requirements of this part when exceptions are not prohibited by statute. In the interest of maximum uniformity, exceptions from the requirements of this part will be permitted as described in this section.

(b) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by the Federal awarding agency or cognizant agency for indirect costs, except where otherwise required by law or where OMB or other approval is expressly required by this part.

(c) The Federal awarding agency may adjust requirements to a class of Federal awards or non-Federal entities when approved by OMB, or when required by Federal statutes or regulations, except for the requirements in subpart F of this part. A Federal awarding agency may apply less restrictive requirements when making fixed amount awards as defined in subpart A of this part, except for those re-

quirements imposed by statute or in subpart F of this part.

(d) Federal awarding agencies may request exceptions in support of innovative program designs that apply a risk-based, data-driven framework to alleviate select compliance requirements and hold recipients accountable for good performance. See also § 200.206.

[85 FR 49538, Aug. 13, 2020, as amended at 86 FR 10439, Feb. 22, 2021]

§ 200.103 Authorities.

This part is issued under the following authorities.

(a) Subparts B through D of this part are authorized under 31 U.S.C. 503 (the Chief Financial Officers Act, Functions of the Deputy Director for Management), 41 U.S.C. 1101–1131 (the Office of Federal Procurement Policy Act), Reorganization Plan No. 2 of 1970, 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”), the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507), as well as The Federal Program Information Act (Pub. L. 95–220 and Pub. L. 98–169, as amended, codified at 31 U.S.C. 6101–6106).

(b) Subpart E of this part is authorized under the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1101–1125); the Chief Financial Officers Act of 1990 (31 U.S.C. 503–504); Reorganization Plan No. 2 of 1970; 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.”

(c) Subpart F of this part is authorized under the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507).

[85 FR 49538, Aug. 13, 2020]

§ 200.104 Supersession.

As described in § 200.110, this part supersedes the following OMB guidance documents and regulations under title 2 of the Code of Federal Regulations:

(a) A–21, “Cost Principles for Educational Institutions” (2 CFR part 220);

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(b) A-87, “Cost Principles for State, Local and Indian Tribal Governments” (2 CFR part 225) and also FEDERAL REGISTER notice 51 FR 552 (January 6, 1986);

(c) A-89, “Federal Domestic Assistance Program Information”;

(d) A-102, “Grant Awards and Cooperative Agreements with State and Local Governments”;

(e) A-110, “Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations” (codified at 2 CFR 215);

(f) A-122, “Cost Principles for Non-Profit Organizations” (2 CFR part 230);

(g) A-133, “Audits of States, Local Governments and Non-Profit Organizations”;

(h) Those sections of A-50 related to audits performed under subpart F of this part.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75882, Dec. 19, 2014; 85 FR 49538, Aug. 13, 2020]

§ 200.105 Effect on other issuances.

(a) *Superseding inconsistent requirements.* For Federal awards subject to this part, all administrative requirements, program manuals, handbooks and other non-regulatory materials that are inconsistent with the requirements of this part must be superseded upon implementation of this part by the Federal agency, except to the extent they are required by statute or authorized in accordance with the provisions in § 200.102.

(b) *Imposition of requirements on recipients.* Agencies may impose legally binding requirements on recipients only through the notice and public comment process through an approved agency process, including as authorized by this part, other statutes or regulations, or as incorporated into the terms of a Federal award.

[85 FR 49538, Aug. 13, 2020]

§ 200.106 Agency implementation.

The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in this part. Federal agencies making Federal awards to non-Federal entities must implement the language in sub-

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parts C through F of this part in codified regulations unless different provisions are required by Federal statute or are approved by OMB.

[85 FR 49538, Aug. 13, 2020]

§ 200.107 OMB responsibilities.

OMB will review Federal agency regulations and implementation of this part, and will provide interpretations of policy requirements and assistance to ensure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

§ 200.108 Inquiries.

Inquiries concerning this part may be directed to the Office of Federal Financial Management Office of Management and Budget, in Washington, DC. Non-Federal entities’ inquiries should be addressed to the Federal awarding agency, cognizant agency for indirect costs, cognizant or oversight agency for audit, or pass-through entity as appropriate.

§ 200.109 Review date.

OMB will review this part at least every five years after December 26, 2013.

§ 200.110 Effective/applicability date.

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

(b) Existing negotiated indirect cost rates (as of the publication date of the revisions to the guidance) will remain in place until they expire. The effective date of changes to indirect cost rates must be based upon the date that a newly re-negotiated rate goes into effect for a specific non-Federal entity’s fiscal year. Therefore, for indirect cost rates and cost allocation plans, the revised Uniform Guidance (as of the publication date for revisions to the guidance) become effective in generating