

SUBCHAPTER C—DoD GRANT AND AGREEMENT REGULATIONS

PART 21—DoD GRANTS AND AGREEMENTS—GENERAL MATTERS

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

SOURCE: 68 FR 47153, Aug. 7, 2003, unless otherwise noted.

Subpart A—Introduction

§ 21.100 What are the purposes of this part?

This part of the DoD Grant and Agreement Regulations:

- (a) Provides general information about the Defense Grant and Agreement Regulatory System (DGARS).
- (b) Sets forth general policies and procedures related to DoD Components' overall management of functions related to assistance and certain other nonprocurement instruments subject to the DGARS (*see* § 21.205(b)).

Subpart B—Defense Grant and Agreement Regulatory System

§ 21.200 What is the Defense Grant and Agreement Regulatory System (DGARS)?

The Defense Grant and Agreement Regulatory System (DGARS) is the system of regulatory policies and procedures for the award and administration of DoD Components' assistance and other nonprocurement awards. DoD Directive 3210.6¹ established the DGARS.

¹Electronic copies may be obtained at the Washington Headquarters Services Internet site <http://www.dtic.mil/whs/directives>. Paper copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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§ 21.205 What types of instruments are covered by the DGARS?

The Defense Grant and Agreement Regulatory System (DGARS) applies to the following types of funding instruments awarded by DoD Components:

- (a) All grants, cooperative agreements, and technology investment agreements.
- (b) Other nonprocurement instruments, as needed to implement statutes, Executive orders, or other Federal Governmentwide rules that apply to those other nonprocurement instruments, as well as to grants and cooperative agreements.

§ 21.210 What are the purposes of the DGARS?

The purposes of the DGARS are to provide uniform policies and procedures for DoD Components' awards, in order to meet DoD needs for:

- (a) Efficient program execution, effective program oversight, and proper stewardship of Federal funds.
- (b) Compliance with relevant statutes; Executive orders; and applicable guidance, such as Office of Management and Budget (OMB) circulars.
- (c) Collection from DoD Components, retention, and dissemination of management and fiscal data related to awards.

§ 21.215 Who is responsible for the DGARS?

The Director of Defense Research and Engineering, or his or her designee, develops and implements DGARS policies and procedures. He or she does so by issuing and maintaining the DoD publications that comprise the DGARS.

§ 21.220 What publications are in the DGARS?

A DoD publication (DoD 3210.6–R²) entitled “The DoD Grant and Agreement Regulations” is the principal element of the DGARS. The Director of Defense Research and Engineering also may publish DGARS policies and procedures in DoD instructions and other DoD publications, as appropriate.

²See footnote 1 to § 21.200.

Subpart C—The DoD Grant and Agreement Regulations

§ 21.300 What instruments are subject to the DoD Grant and Agreement Regulations (DoDGARs)?

(a) The types of instruments that are subject to the DoDGARs vary from one portion of the DoDGARs to another. The types of instruments include grants, cooperative agreements, and technology investment agreements. Some portions of the DoDGARs apply to other types of assistance or non-procurement instruments. The term “awards,” as defined in subpart D of this part, is used in this part to refer collectively to all of the types of instruments that are subject to one or more portions of the DoDGARs.

(b) Note that each portion of the DoDGARs identifies the types of instruments to which it applies. However, grants officers and agreements officers must exercise caution when determining the applicability of some Governmentwide rules that are included within the DoDGARs, because a term may be defined differently in a Governmentwide rule than it is defined elsewhere in the DoDGARs. One example is part 33 of the DoDGARs (32 CFR part 33), which contains administrative requirements for awards to State and local governments. That DoDGARs part is the DoD’s codification of the Governmentwide rule implementing OMB Circular A-102.³ Part 33 states that it applies to grants, but defines the term “grant” to include cooperative agreements and other forms of financial assistance.

(c) For convenience, the table in Appendix A to this part provides an overview of the applicability of the various portions of the DoDGARs.

§ 21.305 What is the purpose of the DoDGARs?

The DoD Grant and Agreement Regulations provide uniform policies and procedures for the award and adminis-

tration of DoD Components’ awards. The DoDGARs are the primary DoD regulations for achieving the DGARS purposes described in § 21.210.

§ 21.310 Who ensures DoD Component compliance with the DoDGARs?

The Head of each DoD Component that makes or administers awards, or his or her designee, is responsible for ensuring compliance with the DoDGARs within that DoD Component.

§ 21.315 May DoD Components issue supplemental policies and procedures to implement the DoDGARs?

Yes, Heads of DoD Components or their designees may issue regulations, procedures, or instructions to implement the DGARS or supplement the DoDGARs to satisfy needs that are specific to the DoD Component, as long as the regulations, procedures, or instructions do not impose additional costs or administrative burdens on recipients or potential recipients.

§ 21.320 Are there areas in which DoD Components must establish policies and procedures to implement the DoDGARs?

Yes, Heads of DoD Components or their designees must establish policies and procedures in areas where uniform policies and procedures throughout the DoD Component are required, such as for:

(a) Requesting class deviations from the DoDGARs (*see* §§ 21.335(b) and 21.340(a)) or exemptions from the provisions of 31 U.S.C. 6301 through 6308, that govern the appropriate use of contracts, grants, and cooperative agreements (*see* 32 CFR 22.220).

(b) Designating one or more Grant Appeal Authorities to resolve claims, disputes, and appeals (*see* 32 CFR 22.815).

(c) Reporting data on assistance awards and programs, as required by 31 U.S.C. chapter 61 (*see* subpart E of this part).

(d) Prescribing requirements for use and disposition of real property acquired under awards, if the DoD Component makes any awards to institutions of higher education or to other nonprofit organizations under which real property is acquired in whole or in

³Electronic copies may be obtained at the Internet site <http://www.whitehouse.gov/OMB>. For paper copies, contact the Office of Management and Budget, EOP Publications, 725 17th St., NW., New Executive Office Building, Washington, DC 20503.

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part with Federal funds (*see* 32 CFR 32.32).

§ 21.325 Do acquisition regulations also apply to DoD grants and agreements?

Unless the DoDGARs specify that they apply, policies and procedures in the following acquisition regulations that apply to procurement contracts do not apply to grants, cooperative agreements, technology investment agreements, or to other assistance or non-procurement awards:

- (a) The Federal Acquisition Regulation (FAR)(48 CFR parts 1-53).
- (b) The Defense Federal Acquisition Regulation Supplement (DFARS)(48 CFR parts 201-270).
- (c) DoD Component supplements to the FAR and DFARS.

§ 21.330 How are the DoDGARs published and maintained?

(a) The DoD publishes the DoDGARs in chapter I, subchapter C, Title 32 of the Code of Federal Regulations (CFR) and in a separate internal DoD document (DoD 3210.6-R). The DoD document is divided into parts, subparts, and sections, to parallel the CFR publication. Cross-references within the DoDGARs are stated as CFR citations (*e.g.*, a reference to §21.215 in part 21 would be to 32 CFR 21.215).

(b) The DoD publishes updates to the DoDGARs in the FEDERAL REGISTER. When finalized, the DoD also posts the updates to the internal DoD document on the World Wide Web at *http://www.dtic.mil/whs/directives*.

(c) A standing working group recommends revisions to the DoDGARs to the Director of Defense Research and Engineering (DDR&E). The DDR&E, Director of Defense Procurement, and each Military Department must be represented on the working group. Other DoD Components that make or administer awards may also nominate representatives. The working group meets when necessary.

EFFECTIVE DATE NOTE: At 72 FR 34986, June 26, 2007, §21.330 was amended by revising paragraph (a), effective Aug. 27, 2007. For the convenience of the user, the revised text is set forth as follows:

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§ 21.330 How are the DoDGARs published and maintained?

(a) The DoD publishes the DoDGARs in the Code of Federal Regulations (CFR) and in a separate internal DoD document (DoD 3210.6-R).

(1) The location of the DoDGARs in the CFR currently is in transition. They are moving from Chapter I, Subchapter C, Title 32, to a new location in Chapter XI, Title 2 of the CFR. During the transition, there will be some parts of the DoDGARs in each of the two titles.

(2) The DoD document is divided into parts, subparts, and sections, to parallel the CFR publication. Cross references within the DoD document are stated as CFR citations (*e.g.*, a reference to section 21.215 in part 21 would be to 32 CFR 21.215), which also is how they are stated in the CFR publication of the DoDGARs.

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§ 21.335 Who can authorize deviations from the DoDGARs?

(a) The Head of the DoD Component or his or her designee may authorize individual deviations from the DoDGARs, which are deviations that affect only one award, if the deviations are not prohibited by statute, executive order or regulation.

(b) The Director of Defense Research and Engineering (DDR&E) or his or her designee must approve in advance any class deviation that affects more than one award. Note that OMB concurrence also is required for class deviations from two parts of the DoDGARs, 32 CFR parts 32 and 33, in accordance with 32 CFR 32.4 and 33.6, respectively.

§ 21.340 What are the procedures for requesting and documenting deviations?

(a) DoD Components must submit copies of justifications and agency approvals for individual deviations and written requests for class deviations to: Deputy Director of Defense Research and Engineering, ATTN: Basic Research, 3080 Defense Pentagon, Washington, DC 20301-3080.

(b) Grants officers and agreements of officers must maintain copies of requests and approvals for individual and class deviations in award files.

Subpart D—Authorities and Responsibilities for Making and Administering Assistance Awards

§ 21.400 To what instruments does this subpart apply?

This subpart applies to grants, cooperative agreements, and technology investment agreements, which are legal instruments used to reflect assistance relationships between the United States Government and recipients.

§ 21.405 What is the purpose of this subpart?

This subpart describes the sources and flow of authority to make or administer assistance awards, and assigns the broad responsibilities associated with DoD Components' use of those instruments.

§ 21.410 Must a DoD Component have statutory authority to make an assistance award?

Yes, the use of an assistance instrument to carry out a program requires authorizing legislation. That is unlike the use of a procurement contract, for which Federal agencies have inherent, Constitutional authority.

§ 21.415 Must the statutory authority specifically mention the use of grants or other assistance instruments?

No, the statutory authority described in § 21.410 need not specifically say that the purpose of the program is assistance or mention the use of any type of assistance instrument. However, the intent of the statute must support a judgment that the use of an assistance instrument is appropriate. For example, a DoD Component may judge that the principal purpose of a program for which it has authorizing legislation is assistance, rather than acquisition. The DoD Component would properly use an assistance instrument to carry out that program, in accordance with 31 U.S.C. chapter 63.

§ 21.420 Under what types of statutory authorities do DoD Components award assistance instruments?

DoD Components may use assistance instruments under a number of statu-

tory authorities that fall into three categories:

(a) *Authorities that statutes provide to the Secretary of Defense.* These authorities generally are delegated by the Secretary of Defense to Heads of DoD Components, usually through DoD directives, instructions, or policy memoranda that are not part of the Defense Grant and Agreement Regulatory System. Examples of statutory authorities in this category are:

(1) Authority under 10 U.S.C. 2391 to award grants or cooperative agreements to help State and local governments alleviate serious economic impacts of defense program changes (*e.g.*, base openings and closings, contract changes, and personnel reductions and increases).

(2) Authority under 10 U.S.C. 2413 to enter into cooperative agreements with entities that furnish procurement technical assistance to businesses.

(b) *Authorities that statutes may provide directly to Heads of DoD Components.* When a statute authorizes the Head of a DoD Component to use a funding instrument to carry out a program with a principal purpose of assistance, use of that authority requires no delegation by the Secretary of Defense. For example, 10 U.S.C. 2358 authorizes the Secretaries of the Military Departments, in addition to the Secretary of Defense, to perform research and development projects through grants and cooperative agreements. Similarly, 10 U.S.C. 2371 provides authority for the Secretaries of the Military Departments and Secretary of Defense to carry out basic, applied, or advanced research projects using assistance instruments other than grants and cooperative agreements. A Military Department's use of the authority of 10 U.S.C. 2358 or 10 U.S.C. 2371 therefore requires no delegation by the Secretary of Defense.

(c) *Authorities that arise indirectly as the result of statute.* For example, authority to use an assistance instrument may result from:

(1) A federal statute authorizing a program that is consistent with an assistance relationship (*i.e.*, the support or stimulation of a public purpose, rather than the acquisition of a good or

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service for the direct benefit of the Department of Defense). In accordance with 31 U.S.C. chapter 63, such a program would appropriately be carried out through the use of grants or cooperative agreements. Depending upon the nature of the program (*e.g.*, research) and whether the program statute includes authority for any specific types of instruments, there also may be authority to use other assistance instruments.

(2) Exemptions requested by the Department of Defense and granted by the Office of Management and Budget under 31 U.S.C. 6307, as described in 32 CFR 22.220.

§ 21.425 How does a DoD Component's authority flow to awarding and administering activities?

The Head of a DoD Component, or his or her designee, may delegate to the heads of contracting activities (HCAs) within the Component, that Component's authority to make and administer awards, to appoint grants officers and agreements officers (*see* §§ 21.435 through 21.450), and to broadly manage the DoD Component's functions related to assistance instruments. The HCA is the same official (or officials) designated as the head of the contracting activity for procurement contracts, as defined at 48 CFR 2.101. The intent is that overall management responsibilities for a DoD Component's functions related to nonprocurement instruments be assigned only to officials that have similar responsibilities for procurement contracts.

§ 21.430 What are the responsibilities of the head of the awarding or administering activity?

When designated by the Head of the DoD Component or his or her designee (*see* 32 CFR 21.425), the head of the awarding or administering activity (*i.e.*, the HCA) is responsible for the awards made by or assigned to that activity. He or she must supervise and establish internal policies and procedures for that activity's awards.

§ 21.435 Must DoD Components formally select and appoint grants officers and agreements officers?

Yes, each DoD Component that awards grants or enters into coopera-

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tive agreements must have a formal process (*see* § 21.425) for selecting and appointing grants officers and for terminating their appointments. Similarly, each DoD Component that awards or administers technology investment agreements must have a process for selecting and appointing agreements officers and for terminating their appointments.

§ 21.440 What are the standards for selecting and appointing grants officers and agreements officers?

In selecting grants officers and agreements officers, DoD Components must use the following minimum standards:

(a) In selecting a grants officer, the appointing official must judge whether the candidate has the necessary experience, training, education, business acumen, judgment, and knowledge of assistance instruments and contracts to function effectively as a grants officer. The appointing official also must take those attributes of the candidate into account when deciding the complexity and dollar value of the grants and cooperative agreements to be assigned.

(b) In selecting an agreements officer, the appointing official must consider all of the same factors as in paragraph (a) of this section. In addition, the appointing official must consider the candidate's ability to function in the less structured environment of technology investment agreements, where the rules provide more latitude and the individual must have a greater capacity for exercising judgment. Agreements officers therefore should be individuals who have demonstrated expertise in executing complex assistance and acquisition instruments.

§ 21.445 What are the requirements for a grants officer's or agreements officer's statement of appointment?

A statement of a grants officer's or agreements officer's appointment:

(a) Must be in writing.

(b) Must clearly state the limits of the individual's authority, other than limits contained in applicable laws or regulations. Information on those limits of a grants officer's or agreements officer's authority must be readily available to the public and agency personnel.

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(c) May, if the individual is a contracting officer, be incorporated into his or her statement of appointment as a contracting officer (*i.e.*, there does not need to be a separate written statement of appointment for assistance instruments).

§21.450 What are the requirements for a termination of a grants officer's or agreements officer's appointment?

A termination of a grants officer's or agreements officer's authority:

(a) Must be in writing, unless the written statement of appointment provides for automatic termination.

(b) May not be retroactive.

(c) May be integrated into a written termination of the individual's appointment as a contracting officer, as appropriate.

§21.455 Who can sign, administer, or terminate assistance instruments?

Only grants officers are authorized to sign, administer, or terminate grants or cooperative agreements (other than technology investment agreements) on behalf of the Department of Defense. Similarly, only agreements officers may sign, administer, or terminate technology investment agreements.

§21.460 What is the extent of grants officers' and agreements officers' authority?

Grants officers and agreements officers may bind the Government only to the extent of the authority delegated to them in their written statements of appointment (*see* §21.445).

§21.465 What are grants officers' and agreements officers' responsibilities?

Grants officers and agreements officers should be allowed wide latitude to exercise judgment in performing their responsibilities, which are to ensure that:

(a) Individual awards are used effectively in the execution of DoD programs, and are made and administered in accordance with applicable laws, Executive orders, regulations, and DoD policies.

(b) Sufficient funds are available for obligation.

(c) Recipients of awards receive impartial, fair, and equitable treatment.

Subpart E—Information Reporting on Awards Subject to 31 U.S.C. Chapter 61

§21.500 What is the purpose of this subpart?

This subpart prescribes policies and procedures for compiling and reporting data related to DoD awards and programs that are subject to information reporting requirements of 31 U.S.C. chapter 61. That chapter of the U.S. Code requires the Office of Management and Budget to maintain a Governmentwide information system to collect data on Federal agencies' domestic assistance awards and programs.

§21.505 What is the Catalog of Federal Domestic Assistance (CFDA)?

The Catalog of Federal Domestic Assistance (CFDA) is a Governmentwide compilation of information about domestic assistance programs. It covers all domestic assistance programs and activities, regardless of the number of awards made under the program, the total dollar value of assistance provided, or the duration. In addition to programs using grants and agreements, covered programs include those providing assistance in other forms, such as payments in lieu of taxes or indirect assistance resulting from Federal operations.

§21.510 Why does the DoD report information to the CFDA?

The Federal Program Information Act (31 U.S.C. 6101 through 6106), as implemented through OMB Circular A-89,⁴ requires the Department of Defense and other Federal agencies to provide certain information about their domestic assistance programs to the OMB

⁴See footnote 3 to §21.300(b).

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and the General Services Administration (GSA). The GSA makes this information available to the public by publishing it in the Catalog of Federal Domestic Assistance (CFDA) and maintaining the Federal Assistance Programs Retrieval System, a computerized data base of the information.

§21.515 Who reports the information for the CFDA?

(a) Each DoD Component that provides domestic financial assistance must:

(1) Report to the Director of Information, Operations and Reports, Washington Headquarters Services (DIOR, WHS) all new programs and changes as they occur or as the DoD Component submits its annual updates to existing CFDA information.

(2) Identify to the DIOR, WHS a point-of-contact who will be responsible for reporting the program information and for responding to inquiries related to it.

(b) The DIOR, WHS is the Department of Defense's single office for collecting, compiling and reporting such program information to the OMB and GSA.

§21.520 What are the purposes of the Defense Assistance Awards Data System (DAADS)?

Data from the Defense Assistance Awards Data System (DAADS) are used to provide:

(a) DoD inputs to meet statutory requirements for Federal Government-wide reporting of data related to obligations of funds by assistance instrument.

(b) A basis for meeting Government-wide requirements to report to the Federal Assistance Awards Data System (FAADS) maintained by the Department of Commerce and for preparing other recurring and special reports to the President, the Congress, the General Accounting Office, and the public.

(c) Information to support policy formulation and implementation and to meet management oversight requirements related to the use of awards.

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§21.525 Who issues policy guidance for the DAADS?

The Deputy Director, Defense Research and Engineering (DDDR&E), or his or her designee, issues necessary policy guidance for the Defense Assistance Awards Data System.

§21.530 Who operates the DAADS?

The Director of Information Operations and Reports, Washington Headquarters Services (DIOR, WHS), consistent with guidance issued by the DDDR&E:

(a) Processes DAADS information on a quarterly basis and prepares recurring and special reports using such information.

(b) Prepares, updates, and disseminates instructions for reporting information to the DAADS. The instructions are to specify procedures, formats, and editing processes to be used by DoD Components, including record layout, submission deadlines, media, methods of submission, and error correction schedules.

§21.535 Do DoD Components have central points for collecting DAADS data?

Each DoD Component must have a central point for collecting DAADS information from contracting activities within that DoD Component. The central points are as follows:

(a) For the Army: As directed by the U.S. Army Contracting Support Agency.

(b) For the Navy: As directed by the Office of Naval Research.

(c) For the Air Force: As directed by the Office of the Secretary of the Air Force, Acquisition Contracting Policy and Implementation Division (SAF/AQCP).

(d) For the Office of the Secretary of Defense, Defense Agencies, and DoD Field Activities: Each Defense Agency must identify a central point for collecting and reporting DAADS information to the DIOR, WHS, at the address given in §21.555(a). DIOR, WHS serves as the central point for offices and activities within the Office of the Secretary of Defense and for DoD Field Activities.

§ 21.540 What are the duties of the DoD Components' central points for the DAADS?

The office that serves, in accordance with § 21.535, as the central point for collecting DAADS information from contracting activities within each DoD Component must:

(a) Establish internal procedures to ensure reporting by contracting activities that make awards subject to 31 U.S.C. chapter 61.

(b) Collect information required by DD Form 2566,⁵ "DoD Assistance Award Action Report," from those contracting activities, and report it to DIOR, WHS, in accordance with §§ 21.545 through 21.555.

(c) Submit to the DIOR, WHS, any recommended changes to the DAADS.

§ 21.545 Must DoD Components report every obligation to the DAADS?

Yes, DoD Components' central points must collect and report the data required by the DD Form 2566 for each individual action that involves the obligation or deobligation of Federal funds for an award that is subject to 31 U.S.C. chapter 61.

§ 21.550 Must DoD Components relate reported actions to listings in the CFDA?

Yes, DoD Components' central points must report each action as an obligation or deobligation under a specific programmatic listing in the Catalog of Federal Domestic Assistance (CFDA, see § 21.505). The programmatic listing to be shown is the one that provided the funds being obligated or deobligated. For example, if a grants officer or agreements officer in one DoD Component obligates appropriations of a second DoD Component's programmatic listing, the grants officer or agreements officer must show the CFDA programmatic listing of the second DoD Component on the DD Form 2566.

⁵Department of Defense forms are available at Internet site <http://www.dior.whs.mil/ICDHOME/FORMTAB.HTM>.

§ 21.555 When and how must DoD Components report to the DAADS?

DoD Components' central points must report:

(a) On a quarterly basis to DIOR, WHS. For the first three quarters of the Federal fiscal year, the data are due by close-of-business (COB) on the 15th day after the end of the quarter (*i.e.*, first-quarter data are due by COB on January 15th, second-quarter data by COB April 15th, and third-quarter data by COB July 15th). Fourth-quarter data are due by COB October 25th, the 25th day after the end of the quarter. If any due date falls on a weekend or holiday, the data are due on the next regular workday. The mailing address for DIOR, WHS is 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302.

(b) On a floppy diskette or by other means permitted either by the instructions described in § 21.530(b) or by agreement with the DIOR, WHS. The data must be reported in the format specified in the instructions.

§ 21.560 Must DoD Components assign numbers uniformly to awards?

Yes, DoD Components must assign identifying numbers to all awards subject to this subpart, including grants, cooperative agreements, and technology investment agreements. The uniform numbering system parallels the procurement instrument identification (PII) numbering system specified in 48 CFR 204.70 (in the "Defense Federal Acquisition Regulation Supplement"), as follows:

(a) The first six alphanumeric characters of the assigned number must be identical to those specified by 48 CFR 204.7003(a)(1) to identify the DoD Component and contracting activity.

(b) The seventh and eighth positions must be the last two digits of the fiscal year in which the number is assigned to the grant, cooperative agreement, or other nonprocurement instrument.

(c) The 9th position must be a number:

(1) "1" for grants.

(2) "2" for cooperative agreements, including technology investment agreements that are cooperative agreements (see Appendix B to 32 CFR part 37).

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(3) “3” for other nonprocurement instruments, including technology investment agreements that are not cooperative agreements.

(d) The 10th through 13th positions must be the serial number of the instrument. DoD Components and contracting activities need not follow any specific pattern in assigning these numbers and may create multiple series of letters and numbers to meet internal needs for distinguishing between various sets of awards.

§ 21.565 Must DoD Components’ electronic systems accept Data Universal Numbering System (DUNS) numbers?

The DoD Components must comply with paragraph 5.e of the Office of Management and Budget (OMB) policy directive entitled, “Requirement for a DUNS number in the Applications for Federal Grants and Cooperative Agreements⁶.” Paragraph 5.e requires electronic systems that handle information about grants and cooperative agreements (which, for the DoD, include Technology Investment Agreements) to accept DUNS numbers. Each DoD Component that awards or administers grants or cooperative agreements must ensure that DUNS numbers are accepted by each such system for which the DoD Component controls the system specifications. If the specifications of such a system are subject to another organization’s control and the system can not accept DUNS numbers, the DoD Component must alert that organization to the OMB policy directive’s requirement for use of DUNS numbers with a copy to: Director for Basic Sciences, ODDR&E, 3040 Defense Pentagon, Washington, DC 20301-3040.

[70 FR 49462, Aug. 23, 2005]

EFFECTIVE DATE NOTE: At 72 FR 34986, June 26, 2007, § 21.565 was revised, effective Aug. 27, 2007. For the convenience of the user, the revised text is set forth as follows:

§ 21.565 Must DoD Components’ electronic systems accept Data Universal Numbering System (DUNS) numbers?

The DoD Components must comply with paragraph 5.e of the Office of Management

and Budget (OMB) policy directive entitled, “Requirement for a DUNS number in Applications for Federal Grants and Cooperative Agreements.”⁶ Paragraph 5.e requires electronic systems that handle information about grants and cooperative agreements (which, for the DoD, include Technology Investment Agreements) to accept DUNS numbers. Each DoD Component that awards or administers grants or cooperative agreements must ensure that DUNS numbers are accepted by each such system for which the DoD Component controls the system specifications. If the specifications of such a system are subject to another organization’s control and the system can not accept DUNS numbers, the DoD Component must alert that organization to the OMB policy directive’s requirement for use of DUNS numbers with a copy to: Director for Basic Sciences, ODDR&E, 3040 Defense Pentagon, Washington, DC 20301-3040.

Subpart F—Definitions

§ 21.605 Acquisition.

The acquiring (by purchase, lease, or barter) of property or services for the direct benefit or use of the United States Government (see more detailed definition at 48 CFR 2.101). In accordance with 31 U.S.C. 6303, procurement contracts are the appropriate legal instruments for acquiring such property or services.

§ 21.610 Agreements officer.

An official with the authority to enter into, administer, and/or terminate technology investment agreements.

§ 21.615 Assistance.

The transfer of a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). Grants, cooperative agreements, and technology investment agreements are examples of legal instruments used to provide assistance.

§ 21.620 Award.

A grant, cooperative agreement, technology investment agreement, or other nonprocurement instrument subject to one or more parts of the DoD

⁶This OMB policy directive is available at the Internet site http://www.whitehouse.gov/omb/grants/grants_docs.html.

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Office of the Secretary of Defense

§ 21.680

Grant and Agreement Regulations (*see* appendix A to this part).

§ 21.625 Contract.

See the definition for procurement contract in this subpart.

§ 21.630 Contracting activity.

An activity to which the Head of a DoD Component has delegated broad authority regarding acquisition functions, pursuant to 48 CFR 1.601.

§ 21.635 Contracting officer.

A person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. A more detailed definition of the term appears at 48 CFR 2.101.

§ 21.640 Cooperative agreement.

A legal instrument which, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (*see* definition “grant”), except that substantial involvement is expected between the Department of Defense and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include “cooperative research and development agreements” as defined in 15 U.S.C. 3710a.

§ 21.645 Deviation.

The issuance or use of a policy or procedure that is inconsistent with the DoDGARs.

§ 21.650 DoD Components.

The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and DoD Field Activities.

§ 21.655 Grant.

A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(a) Of which the principal purpose is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the

Department of Defense’s direct benefit or use.

(b) In which substantial involvement is not expected between the Department of Defense and the recipient when carrying out the activity contemplated by the grant.

§ 21.660 Grants officer.

An official with the authority to enter into, administer, and/or terminate grants or cooperative agreements.

§ 21.665 Nonprocurement instrument.

A legal instrument other than a procurement contract. Examples include instruments of financial assistance, such as grants or cooperative agreements, and those of technical assistance, which provide services in lieu of money.

§ 21.670 Procurement contract.

A legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other recipient when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition for contract at 48 CFR 2.101.

§ 21.675 Recipient.

An organization or other entity receiving an award from a DoD Component.

§ 21.680 Technology investment agreements.

A special class of assistance instruments used to increase involvement of commercial firms in defense research programs and for other purposes related to integrating the commercial and defense sectors of the nation’s technology and industrial base. Technology investment agreements include one kind of cooperative agreement with provisions tailored for involving commercial firms, as well as one kind of other assistance transaction. Technology investment agreements are described more fully in 32 CFR part 37.

APPENDIX A TO PART 21—INSTRUMENTS TO WHICH DoDGARs PORTIONS APPLY

DoDGARs . . .	which addresses . . .	applies to . . .
Part 21 (32 CFR part 21), all but Subparts D and E	The Defense Grant and Agreement Regulatory System and the DoD Grant and Agreement Regulations	"awards," which are grants, cooperative agreements, technology investment agreements (TIAs), and other nonprocurement instruments subject to one or more parts of the DoDGARs.
Part 21 (32 CFR part 21), Subpart D	Authorities and responsibilities for assistance award and administration	grants, cooperative agreements, and TIAs.
Part 21 (32 CFR part 21), Subpart E	DoD Components' information reporting requirements	grants, cooperative agreements, TIAs, and other nonprocurement instruments subject to reporting requirements in 31 U.S.C. chapter 61.
Part 22 (32 CFR part 22)	DoD grants officers' responsibilities for award and administration of grants and cooperative agreements	grants and cooperative agreements other than TIAs.
Part 25 (32 CFR part 25)	Governmentwide debarment and suspension requirements	nonprocurement generally, which includes grants, cooperative agreements, TIAs, and other instruments that are covered transactions under 32 CFR 25.210, with the exceptions identified at 32 CFR 25.215.
Part 26 (32 CFR part 26)	Governmentwide drug-free workplace requirements	grants, cooperative agreements and other financial assistance instruments, including TIAs, that are included in the definition of "award" at 32 CFR 26.605.
Part 28 (32 CFR part 28)	Governmentwide restrictions on lobbying	grants, cooperative agreements and other financial assistance instruments, including TIAs, that are included in the definitions of "Federal grant" and "Federal cooperative agreement" at 32 CFR 28.105.
Part 32 (32 CFR part 32)	Administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations	grants, cooperative agreements other than TIAs, and other assistance included in "award," as defined in 32 CFR 32.2. Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 33 (32 CFR part 33)	Administrative requirements for grants and agreements with State and local governments	grants, cooperative agreements other than TIAs, and other assistance included in "grant," as defined in 32 CFR 33.3. Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 34 (32 CFR part 34)	Administrative requirements for grants and agreements with for-profit organizations	grants and cooperative agreements other than TIAs ("awards," as defined in 32 CFR 34.2). Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 37 (32 CFR part 37)	Agreements officers' responsibilities for award and administration of TIAs	TIAs. Note that this part refers to portions of DoDGARs parts 32, 33, and 34 that apply to TIAs.

[70 FR 49463, Aug. 23, 2005]

EFFECTIVE DATE NOTE: At 72 FR 34986, June 26, 2007, Appendix A to part 21 was revised, effective Aug. 27, 2007. For the convenience

of the user, the revised text is set forth as follows:

APPENDIX A TO PART 21—INSTRUMENTS TO WHICH DoDGARs PORTIONS APPLY

DoDGARs . . .	which addresses . . .	applies to . . .
Part 21 (32 CFR part 21), all but Subparts D and E	The Defense Grant and Agreement Regulatory System and the DoD Grant and Agreement Regulations	“awards,” which are grants, cooperative agreements, technology investment agreements (TIAs), and other nonprocurement instruments subject to one or more parts of the DoDGARs.
Part 21 (32 CFR part 21), Subpart D	Authorities and responsibilities for assistance award and administration	grants, cooperative agreements, and TIAs.
Part 21 (32 CFR part 21), Subpart E	DoD Components’ information reporting requirements	grants, cooperative agreements, TIAs, and other nonprocurement instruments subject to reporting requirements in 31 U.S.C. chapter 61.
Part 22 (32 CFR part 22)	DoD grants officers’ responsibilities for award and administration of grants and cooperative agreements	grants and cooperative agreements other than TIAs.
Part 26 (32 CFR part 26)	Governmentwide drug-free workplace requirements	grants, cooperative agreements and other financial assistance instruments, including TIAs, that are included in the definition of “award” at 32 CFR 26.605.
Part 28 (32 CFR part 28)	Governmentwide restrictions on lobbying	grants, cooperative agreements and other financial assistance instruments, including TIAs, that are included in the definitions of “Federal grant” and “Federal cooperative agreement” at 32 CFR 28.105.
Part 32 (32 CFR part 32)	Administrative requirements for grants and agreements with institutions of higher education, hospitals, and other non-profit organizations	grants, cooperative agreements other than TIAs, and other assistance included in “award,” as defined in 32 CFR 32.2. Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 33 (32 CFR part 33)	Administrative requirements for grants and agreements with State and local governments	grants, cooperative agreements other than TIAs, and other assistance included in “grant,” as defined in 32 CFR 33.3. Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 34 (32 CFR part 34)	Administrative requirements for grants and agreements with for-profit organizations	grants and cooperative agreements other than TIAs (“awards,” as defined in 32 CFR 34.2). Portions of this part apply to TIAs, but only as 32 CFR part 37 refers to them and makes them apply.
Part 37 (32 CFR part 37)	Agreements officers’ responsibilities for award and administration of TIAs	TIAs. Note that this part refers to portions of DoDGARs parts 32, 33, and 34 that apply to TIAs.
Part 1125 (2 CFR part 1125)	Governmentwide debarment and suspension requirements	nonprocurement generally, including grants, cooperative agreements, TIAs, and any other instruments that are covered transactions under OMB guidance in 2 CFR 180.210 and 180.215, as implemented by 2 CFR part 1125, except acquisition transactions to carry out prototype projects (see 2 CFR 1125.20).

**PART 22—DoD GRANTS AND
AGREEMENTS—AWARD AND AD-
MINISTRATION**

Subpart A—General

Sec.

22.100 Purpose, relation to other parts, and
organization.

22.105 Definitions.

**Subpart B—Selecting the Appropriate
Instrument**

22.200 Purpose.

22.205 Distinguishing assistance from pro-
curement.

22.210 Authority for providing assistance.