

# Rules and Regulations

Federal Register

Vol. 80, No. 175

Thursday, September 10, 2015

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## OFFICE OF MANAGEMENT AND BUDGET

### 2 CFR Parts 25 and 200

#### Universal Identifier and System of Award Management; Corrections

**AGENCY:** Executive Office of the President, Office of Management and Budget.

**ACTION:** Correcting amendments.

**SUMMARY:** The Office of Management and Budget (OMB) is correcting the final guidance that appeared in the **Federal Register** on September 14, 2010 (75 FR 55673) and December 26, 2013 (78 FR 78589). OMB is amending the guidance to make technical corrections where needed. The final guidance is revised to remove references to the “System of Award Management” and replace them with the correct term “System for Award Management”.

With respect to the technical corrections to the final guidance, these corrections are included only where it has come to the attention of the Council on Financial Assistance Reform (COFAR) that particular language in the final guidance did not match with the COFAR’s intent and would result in an erroneous implementation of the guidance. These technical corrections will go into effect at the time of issuance.

Guidance on effective/applicability date is revised to allow a grace period of two fiscal years for non-Federal entities to implement changes to their procurement policies and procedures in accordance with guidance on procurement standards.

Other requirements in the section remain as originally published. Technical corrections are made to eliminate conflicting or unclear language and grammatical inconsistencies or citation errors throughout.

**DATES:** *Effective date:* September 10, 2015.

*Implementation date:* For all non-Federal entities, there is a two-year grace period for implementation of the procurement standards in 2 CFR 200.317 through 200.326.

**FOR FURTHER INFORMATION CONTACT:** Rhea Hubbard or Gil Tran, Office of Federal Financial Management, [rhubbard@omb.eop.gov](mailto:rhubbard@omb.eop.gov) or [Hai\\_M\\_Tran@omb.eop.gov](mailto:Hai_M_Tran@omb.eop.gov), or via telephone at (202) 395–3993.

**SUPPLEMENTARY INFORMATION:** This is a summary of OMB’s Erratum, 2 CFR 200 released on December 26, 2013. This is the second set of corrections. The first set of corrections was published in the **Federal Register** on December 19, 2014 (79 FR 75871). This document augments the corrections which were published in the **Federal Register** on December 19, 2014 (79 FR 75871).

#### Additional Outreach and Training

Since the issuance of the Uniform Guidance on December 26, 2013, the COFAR has developed and provided numerous additional resources to assist stakeholders in learning about the guidance. For a complete list and access to these resources, please visit the COFAR Web site at [cfo.gov/COFAR](http://cfo.gov/COFAR). Resources available include a Frequently Asked Questions document, as well as several training webcasts. Please note that the Frequently Asked Questions document will be referenced as additional guidance in the 2015 issuance of Appendix XI to Part 200—Compliance Supplement.

#### List of Subjects

##### 2 CFR Part 25

Administrative practice and procedures, Grants administration, Grant programs, Loan programs.

##### 2 CFR Part 200

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

#### Mark Reger,

*Deputy Controller.*

Under the authority of the Chief Financial Officer Act of 1990 (31 U.S.C. 503), the Office of Management and Budget amends 2 CFR parts 25 and 200

by making the following correcting amendments:

#### PART 25—UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT

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

**Authority:** Pub. L. 109–282; 31 U.S.C. 6102.

■ 2. Revise the heading of part 25 to read as set forth above.

#### §§ 25.100 and 25.310 and Appendix A to Part 25 [Amended]

■ 3. Amend §§ 25.100 and 25.310 and Appendix A to Part 25 by removing references to “System of Award Management” wherever they appear, and adding, in their place, “System for Award Management”.

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

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

**Authority:** 31 U.S.C. 503.

#### § 200.19 [Amended]

■ 5. Amend § 200.19 paragraph (b) by removing “C.12” and adding, in its place “C.2.a.”.

■ 6. In § 200.40 revise the introductory text of paragraph (a) and the the introductory text of paragraph (b), to read as follows:

#### § 200.40 Federal financial assistance.

(a) *Federal financial assistance* means assistance that non-Federal entities receive or administer in the form of:

\* \* \* \* \*

(b) For § 200.202 Requirement to provide public notice of Federal financial assistance programs and Subpart F—Audit Requirements of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:

\* \* \* \* \*

■ 7. In § 200.101, revise the table in paragraph (b)(1), and revise paragraph (d)(1), to read as follows:

#### § 200.101 Applicability.

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

This table must be read along with the other provisions of this section

The following portions of this Part	Are applicable to the following types of Federal Awards and Fixed-Price Contracts and Subcontracts (except as noted in paragraphs (d) and (e) below):	Are NOT applicable to the following types of Federal Awards and Fixed-Price Contracts and Subcontracts:
Subpart A—Acronyms and Definitions .....	—All.	
Subpart B—General Provisions, except for §§ 200.111 English Language, 200.112 Conflict of Interest, 200.113 Mandatory Disclosures.	—All.	
§§ 200.111 English Language, 200.112 Conflict of Interest, 200.113 Mandatory Disclosures.  Subparts C–D, except for §§ 200.202 Requirement to provide public notice of Federal financial assistance programs, 200.303 Internal controls, 200.330–332 Subrecipient Monitoring and Management.	—Grant Agreements and cooperative agreements.  —Grant Agreements and cooperative agreements.	—Agreements for loans, loan guarantees, interest subsidies and insurance. —Procurement contracts awarded by Federal Agencies under the Federal Acquisition Regulation and subcontracts under those contracts. —Agreements for loans, loan guarantees, interest subsidies and insurance. —Procurement contracts awarded by Federal Agencies under the Federal Acquisition Regulation and subcontracts under those contracts.
§ 200.202 Requirement to provide public notice of Federal financial assistance programs.	—Grant Agreements and cooperative agreements. —Agreements for loans, loan guarantees, interest subsidies and insurance.	—Procurement contracts awarded by Federal Agencies under the Federal Acquisition Regulation and subcontracts under those contracts.
§§ 200.303 Internal controls, 200.330–332 Subrecipient Monitoring and Management.	—All.	
Subpart E—Cost Principles .....	—Grant Agreements and cooperative agreements, except those providing food commodities. —All procurement contracts under the Federal Acquisition Regulations except those that are not negotiated.	—Grant agreements and cooperative agreements providing foods commodities. —Fixed amount awards. —Agreements for loans, loans guarantees, interest subsidies and insurance. —Federal awards to hospitals (see Appendix IX Hospital Cost Principles).
Subpart F—Audit Requirements .....	—Grant Agreements and cooperative agreements. —Contracts and subcontracts, except for fixed price contacts and subcontracts, awarded under the Federal Acquisition Regulation. —Agreements for loans, loans guarantees, interest subsidies and insurance and other forms of Federal Financial Assistance as defined by the Single Audit Act Amendment of 1996.	—Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation.

(d) \* \* \*

(1) The block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services), except to the extent that Subpart E—Cost Principles of this Part apply to subrecipients of Community Services Block Grant funds pursuant to 42 U.S.C. 9916(a)(1)(B);

\* \* \* \* \*

■ 8. Revise § 200.110, paragraph (a) to read as follows:

**§ 200.110 Effective/applicability date.**

(a) The standards set forth in this part which affect 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. Federal awarding agencies must implement the

policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB. For the procurement standards in §§ 200.317–200.326, non-Federal entities may continue to comply with the procurement standards in previous OMB guidance (superseded by this part as described in § 200.104) for two additional fiscal years after this part goes into effect. If a non-Federal entity chooses to use the previous procurement standards for an additional two fiscal years before adopting the procurement standards in this part, the non-Federal entity must document this decision in their internal procurement policies.

\* \* \* \* \*

**§ 200.203 [Amended]**

■ 9. In § 200.203(a)(5), remove “Financial” and add, in its place, “Domestic”

■ 10. Revise § 200.305, paragraph (b)(9) introductory text to read as follows:

**§ 200.305 Payment.**

\* \* \* \* \*

(b) \* \* \*

(9) Interest earned amounts up to \$500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service

payment. Remittances must include pertinent information of the payee and nature of payment in the memo area (often referred to as "addenda records" by Financial Institutions) as that will assist in the timely posting of interest earned on federal funds. Pertinent details include the Payee Account Number (PAN) if the payment originated from PMS, or Agency information if the payment originated from ASAP, NSF or another federal agency payment system. The remittance must be submitted as follows:

\* \* \* \* \*

■ 11. Revise § 200.308, paragraph (c) to read as follows:

**§ 200.308 Revision of budget and program plans.**

\* \* \* \* \*

(c)(1) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons:

(i) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(ii) Change in a key person specified in the application or the Federal award.

(iii) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(iv) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with Subpart E—Cost Principles of this part or 45 CFR part 75 Appendix IX, "Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals," or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable.

(v) The transfer of funds budgeted for participant support costs as defined in § 200.75 Participant support costs to other categories of expense.

(vi) Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount subawards as described in § 200.332 Fixed amount subawards. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(vii) Changes in the approved cost-sharing or matching provided by the non-Federal entity.

(viii) The need arises for additional Federal funds to complete the project.

(2) No other prior approval requirements for specific items may be imposed unless an exception has been approved by OMB. See also §§ 200.102 Exceptions and 200.407 Prior written approval (prior approval).

\* \* \* \* \*

**§ 200.320 [Amended]**

■ 12. In § 200.320, paragraph (c)(2)(i), remove "state," and remove "publically" and add, in its place "publicly".

■ 13. In § 200.330, revise the final sentence of paragraph (b) introductory text to read as follows:

**§ 200.330 Subrecipient and contractor determinations.**

\* \* \* \* \*

(b) \* \* \* Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

\* \* \* \* \*

■ 14. Revise § 200.331, paragraphs (a)(1)(iv), (vi), (vii), (viii), and (x); (a)(2) and (a)(4) to read as follows:

**§ 200.331 Requirements for pass-through entities.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(iv) Federal Award Date (see § 200.39 Federal award date) of award to the recipient by the Federal agency;

\* \* \* \* \*

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

\* \* \* \* \*

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

\* \* \* \* \*

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;

\* \* \* \* \*

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de

minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (f);

\* \* \* \* \*

**§ 200.431 [Amended]**

■ 15. In § 200.431, paragraph (h)(3) remove "Federal Government's" and add, in its place "non-Federal entity" and revise paragraph (j) to read as follows:

**§ 200.431 Compensation—fringe benefits.**

\* \* \* \* \*

(j)(1) *For IHEs only.* Fringe benefits in the form of undergraduate and graduate tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-Federal entity policies, and are distributed to all non-Federal entity activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions, provided that the benefit does not discriminate in favor of highly compensated employees. Employees can exercise these benefits at other institutions according to institutional policy. See § 200.466 Scholarships and student aid costs, for treatment of tuition remission provided to students.

\* \* \* \* \*

**§ 200.449 [Amended]**

■ 16. In § 200.449, paragraph (e), remove "September 23" and add, in its place "July 1".

■ 17. Amend Appendix III to Part 200 as follows:

■ a. In Section C.7, revise the first sentence.

■ b. Amend the final sentence of Section C.11.a.(1), by adding "see" after "subrecipient,".

The revision reads as follows:

**Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)**

\* \* \* \* \*

C. \* \* \*

7. Except as provided in paragraph (c)(1) of § 200.414 Indirect (F&A) costs, Federal agencies must use the negotiated rates in effect at the time of the initial award

throughout the life of the Federal award.

\* \* \*

\* \* \* \* \*

■ 18. Amend Appendix IV to Part 200 as follows:

■ a. In Section A., designate the second paragraph as Section A.1.2., and revise the newly designated paragraph.

■ b. In Section B.2.e. amend the first sentence to remove "Federal funding of direct costs" and adding in its place "direct Federal funding" and remove "section A.3 of this Appendix" and add in its place "paragraph (a) of § 200.414 Indirect (F&A) costs".

■ c. In Section B.3.g. amend the final sentence by removing "section A.3 of this Appendix" and adding in its place "paragraph (a) of § 200.414 Indirect (F&A) costs",

■ d. In Section C.2.b. amend the first sentence to remove "(e)" and add in its place "(f)",

■ e. In Section C.2.c. amend the first sentence to remove "(f)" and add in its place "(g)".

The revision reads as follows:

**Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations**

\* \* \* \* \*

2. "Major nonprofit organizations" are defined in paragraph (a) of § 200.414 Indirect (F&A) costs. See indirect cost rate reporting requirements in sections B.2.e and B.3.g of this Appendix.

\* \* \* \* \*

■ 19. Amend Appendix V to Part 200 by revising Section E.2. to read as follows:

**Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans**

\* \* \* \* \*

*2. Allocated Central Services*

For each allocated central service\*, the plan must also include the following: a brief description of the service, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefitted agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. must also be included.

\* \* \* \* \*

[FR Doc. 2015-22074 Filed 9-9-15; 8:45 am]

BILLING CODE P

**DEPARTMENT OF AGRICULTURE**

**Food and Nutrition Service**

**7 CFR Parts 272 and 273**

**RIN 0584-AE01**

**Clarification of Eligibility of Fleeing Felons**

**AGENCY:** Food and Nutrition Service (FNS), USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule implements Section 4112 of the Food, Conservation, and Energy Act of 2008. Section 4112 amended Section 6(k) of the Food and Nutrition Act of 2008 to require the Secretary of Agriculture to define the terms "fleeing" and "actively seeking" to ensure that State agencies use consistent procedures regarding the disqualification of a fleeing felon from eligibility for SNAP benefits when the individual is fleeing to avoid prosecution, custody or confinement after conviction for committing a crime or attempting to commit a crime that is a felony under the law of the place from which the individual is fleeing (or a high misdemeanor in New Jersey) or is violating a condition of probation or parole under Federal or State law.

**DATES:** This rule is effective November 9, 2015.

**FOR FURTHER INFORMATION CONTACT:** Sasha Gersten-Paal, Certification Policy Branch, Program Development Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 305-2507.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193 (PRWORA) amended Section 6 of the Food Stamp Act of 1977 (now entitled The Food and Nutrition Act of 2008) (the Act) to disqualify fleeing felons from the Supplemental Nutrition Assistance Program (SNAP). To be disqualified under the fleeing felon provisions of PRWORA, an individual must be either: Fleeing to avoid prosecution, custody or confinement after conviction for committing a crime or attempting to commit a crime that is a felony under the law of the place from which the individual is fleeing (or a high misdemeanor in New Jersey); or violating a condition of probation or parole imposed under Federal or State law. The intent of the law was to prohibit individuals who were intentionally fleeing to avoid

prosecution or imprisonment from receiving SNAP benefits and to aid law enforcement officials actively seeking to apprehend those fleeing to avoid prosecution or custody by providing them with needed information as allowable under the Act. The disqualification provisions were codified in the SNAP regulations on January 17, 2001, at 66 FR 4438. For simplicity, throughout the balance of this preamble we will use the term felony to encompass felonies, and, in the State of New Jersey, felonies and high misdemeanors.

Section 4112 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110-246) amended Section 6(k) of the Act to require the Secretary of Agriculture to define the terms "fleeing" and "actively seeking" to ensure State agencies use consistent procedures to disqualify individuals fleeing to avoid prosecution, custody or confinement after conviction for committing a crime or attempting to commit a crime that is a felony under the law of the place from which the individual is fleeing or is violating a condition of probation or parole under Federal or State law. On August 19, 2011, the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) published a proposed rule at 76 FR 51907, providing proposed definitions for "fleeing" and "actively seeking", and procedures for disqualifying individuals determined to be fleeing or violating a condition of probation or parole. Readers are directed to the proposed rule for a more thorough description of the policies in effect prior to the publication of the proposed rule and for the reasons the Department was directed to define these terms. The Department received thirty-seven comments on the proposed rule. Comments were received from State agencies, legal service organizations, advocacy groups, state investigative agencies, and private citizens.

The regulations governing the fleeing felon and parole and probation violators are found at 7 CFR 272.1(c)(1)(vii) Disclosure, 7 CFR 273.1(b)(7)(ix) Special household requirements, 7 CFR 273.2(b)(4)(ii) Privacy Act Statement, and 7 CFR 273.11(n) Fleeing Felons and probation or parole violators. The Department proposed revising § 273.11(n) in its entirety. The Department also proposed a conforming amendment for 7 CFR 272.1(c)(1)(vii) Disclosure.

Section 202 of PRWORA established similar provisions for Supplemental Security Income (SSI). The Social Security Administration (SSA) developed more rigorous standards than FNS in implementing the legislative