

Chapter 3: AWARD

3-1: Issuing an Award

A. FUNDS CONTROL POLICY

1. Program Offices must follow the Funds Control Handbook issued by the OCFO, including Chapter 4 on commitments and Chapter 5 on obligations. The following information in this section briefly describes certain aspects of commitments and obligations and contains references for additional information.
2. Program Offices, as per the Funds Control Handbook, must have a two-step funds control process requiring verification of fund availability prior to making any internal commitment of funds and to incurring any legal obligation to expend funds.

B. GRANT AWARD NUMBERING

1. For funding control, a unique identification number must be assigned to commitments and this identification number must be associated with any subsequent funding action.
2. Unless exempted by the OCIO, the commitment coding structure must conform to the HUDCAPS, its subsidiary system (e.g., the PAS), or a successor system issued by the OCFO and in concurrence with GMO. For additional information, see Chapter 4 – 11 of the Funds Control Handbook.

C. FUND COMMITMENT

1. Key points in the commitment process are identified in the OCFO-approved Funds Control Matrix for each program and guidance and requirements for commitments are included in Chapter 4 of the Funds Control Handbook.
2. Program Offices should use an electronic approval process for approving a fund commitment whenever possible, if it is approved in their matrix and meets the requirements of Chapter 1 – 13 of the Funds Control Handbook. If a Program Office does not have an electronic approval process, then the HUD-718 (dated May 2004 or a later current version) or another OCFO-approved form or document may be used. Both the electronic and paper-based processes must certify the availability of funds. Both processes must also include the funding source; budget fiscal year; budget organization code; PAS code; Budget object code; and the unique numbered identifier for commitments. For additional information, see Chapter 4 -7 of the Funds Control Handbook.
3. The funding commitment must also include the recipient's Assistance Listing number to allow for reporting to OMB and ensuring awardees expending

\$750,000 in Federal funds in a single year are subject to the Federal funds management audit requirements. If funds control commitments are processed electronically, the electronic system must include the DUNS data element.

D. FUND OBLIGATION

1. Key points in the obligation process are identified in the OCFO-approved Funds Control Matrix for each program and guidance and requirements for obligations are included in Chapter 5 of the Funds Control Handbook.
2. An obligation of funds is a legally binding agreement requiring an outlay or expenditure of funds immediately or in the future. An obligation may not be authorized before enactment of an applicable appropriation and issuing an allotment, unless otherwise provided by law.
3. Obligations should be recorded in the appropriate accounts as incurred, in the appropriate source year accounts. Obligations must never exceed available funds and should reference, and be verified against, a prior commitment of funds to assure sufficient funds are available, unless exempted from the funds commitment process by the OCFO.
4. Care must be taken to properly establish the point of obligation taking into account the guidance provided in Chapter 2 – 14 of this Handbook and Chapters 5 – 5 and 5 – 7 of the Funds Control Handbook.
5. Program counsel should be asked to review the form and content of any notification of selection or announcement letters prior to signing an award agreement, to ensure such communications will not prematurely obligate the government before terms and conditions have been agreed to by HUD and the proposed funding recipient.
6. Program Offices are cautioned to avoid any communication improperly implying an obligation of funds prior to the intended point of obligation. For additional information, see Chapter 5 – 6 of the Funds Control Handbook.
7. A recipient indicates acceptance of a HUD award and its associated terms and conditions by signing the grant agreement or cooperative agreement or if no agreement is required, by drawing down or requesting award funds from the designated HUD payment system or office.

Note that 2 CFR 200.211 requires Federal agencies to include a period of performance start and end date as well as the budget period start and end date on the Federal award (e.g., grant agreement). The Program Office must ensure that the dates are recorded in the designated storage system (e.g., LOCCS).

3-2: Indirect Costs (2 CFR 200.414)

A. BACKGROUND

1. Indirect Costs:

- a. Indirect costs are costs that are incurred for a common or joint purpose benefitting more than one cost objective and cannot be readily assigned to a final cost objective without effort disproportionate to the results achieved.
- b. Indirect costs allocable to a HUD award may be recovered by using the de minimis rate of 10% of modified total direct costs, as provided at 2 CFR 200.414(f) (except for those non-Federal entities described in appendix VII of 2 CFR 200 paragraph D.1.b), or by using an indirect cost rate developed in accordance with the requirements in 2 CFR part 200, where sections related to indirect costs were updated as of November 12, 2020. De minimis rates may only be used if the non-Federal entity does not have a current negotiated (including provisional) rate that is publicly available on an OMB-designated website.
- c. As described in 2 CFR 200.403, costs must be consistently charged as either indirect or direct costs but may not be double charged or inconsistently charged as both.
- d. OMB has designated USAspending.gov as the Federal website to make the Federally negotiated indirect rate, distribution base, and rate type for non-Federal entities (except for the Indian tribes or tribal organizations, as defined in the Indian Self Determination and Education Assistance Act, 25 U.S.C. 5304(e)) publicly available.
- e. A governmental department or agency unit that receives more than \$35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. (Appendix VII of 2 CFR 200 paragraph D.1.b)

2. **Indirect Cost Rate Proposal (ICRP):** If a recipient is not allowed or chooses not to use the de minimis rate under 2 CFR 200.414(f), the recipient must develop an ICRP to recover its indirect costs under Federal awards. The ICRP must be developed in accordance with the applicable appendix under 2 CFR 200.414(e) and submitted to the Cognizant Agency for Indirect Costs for negotiation and approval of the rate.

EXCEPTION: If a state- or local-government department or agency unit receives no more than \$35 million in direct Federal funding each year and develops and maintains an ICRP and supporting documentation in accordance with Appendix VII to Part 200, that government department or agency unit is NOT required to submit its

proposal for negotiation unless specifically requested by its Cognizant Agency for Indirect Costs.

3. **Cognizant Agency for Indirect Costs:** Cognizant Agency for Indirect Costs means the Federal agency responsible for reviewing, negotiating, and approving central service cost allocation plans or indirect cost rate proposals developed under 2 CFR part 200 on behalf of all Federal agencies. For assignments of cognizant agencies see the following:
 - a. For Institutions of Higher Education: Appendix III to Part 200--Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph C.11.
 - b. For nonprofit organizations: Appendix IV to Part 200--Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations, paragraph C.2.a.
 - c. For state and local governments: Appendix V to Part 200--State/Local Governmentwide Central Service Cost Allocation Plans, paragraph F.1.
 - d. For Indian tribes: Appendix VII to Part 200--States and Local Government and Indian Tribe Indirect Cost Proposal, paragraph D.1.
4. **HUD-HHS IAA:** In the past, HUD entered into an Inter-Agency Agreement (IAA) with the Department of Health and Human Services (HHS) to review Indirect Cost Rate Proposals (ICRPs) on behalf of the Department.

As of March 1, 2020, Program Offices will need to enter into separate independent agreements with HHS, in order to have their respective Indirect Cost Proposals reviewed.

At a minimum, Program Offices will need to:

- a) Designate their own Contracting Officer Representative (COR) to manage the agreement with HHS;
- b) Initialize their own separate IAA and Contract Service Agreement (CSA) with HHS;
- c) Fund their independent Intra-Governmental Payment and Collections IPACs;
- d) Add these actions to their Annual Procurement Plan (APP) for each fiscal year.

Contact your Program's contract office for specific policy and procedures on reviewing ICRPs.

B. HUD ACCEPTANCE OF FEDERALLY NEGOTIATED RATES

1. All Program Offices must accept Federally negotiated Indirect Cost Rate Agreements (ICRAs). A program may impose a different rate for a class of awards or single award only when:

- a. Required by Federal statute or regulation; or
 - b. Approved by the Secretary or designee with delegated authority based on documented justification as described in paragraph 3 below.
2. HUD must inform OMB of any deviations from the Federally negotiated indirect cost rate agreements.
 3. HUD must implement, and make publicly available, the policies, procedures, and decision-making criteria that its programs will follow to justify deviations from negotiated rates. A NOFO or Renewal Instructions must indicate if a rate other than the negotiated indirect cost rates will apply to a certain grant program.
 4. GMO will work with Program Offices to help develop Department-wide requirements, procedures, and/or general decision-making criteria relative to deviations or changes from negotiated rates.

C. WHEN HUD IS THE COGNIZANT AGENCY FOR INDIRECT COSTS

1. **Submission of Indirect Cost Rate Proposals:** When HUD is the Cognizant Agency for Indirect Costs for a recipient and that recipient is required to submit its Indirect Cost Rate Proposal (ICRP) for negotiation, the recipient must submit the proposal to the designated Program Office POC for Indirect Cost Rates (usually the Budget Officer). This Program Office POC for Indirect Cost Rates will then forward the proposal to the Contract Officer Representative (COR) responsible for managing the ICR IAA with HHS.
2. **HHS Review of ICRP:** ICRP status will be maintained in a centralized clearinghouse. HHS will provide the grantee with a negotiated provisional or final rate. The normal turn-around time for ICRPs is 120 days, provided that the proposal is complete.
3. **Grantee Updates Program Office:** The grantee must provide a copy of the negotiated provisional and/or final negotiated Indirect Cost Rate Agreement (ICRA) to the Program Office POC for Indirect Cost Rates.

Program Office Updates Grant Record: The Program Office is responsible for updating records and using the new rate in future reimbursement or grant actions. See HHS Program Support Center guidance:
https://rates.psc.gov/fms/dca/np_exall2.html .

4. **HHS Program Support Center Guidance:** Further information and technical guidance on the development of indirect cost rates is available at <https://rates.psc.gov/>.

3-3: Information Contained in Federal Award (2 CFR 200.211)

A. REQUIREMENTS

1. A Federal award must include the following information:
 - a. Federal award performance goals (§200.202 and 200.301)
 - b. General Federal Award Information;
 - c. General Terms and Conditions;
 - d. Program specific terms and conditions;
 - e. Any other information required by HUD.
2. In accordance with statutory requirements for Federal spending transparency (e.g., FFATA) for applicable awards, HUD must announce all Federal awards publicly and publish the required information on a publicly available OMB-designated Federal website.

B. FEDERAL AWARD PERFORMANCE GOALS

1. Performance goals, indicators, targets, and baseline data must be included in the Federal award, where applicable. The Federal awarding agency must also specify how performance will be assessed in the terms and conditions of the Federal award, including the timing and scope of expected performance.
2. See §§200.202 and 200.301 for more information on Federal award performance goals.

C. GENERAL FEDERAL AWARD INFORMATION

1. Program Offices must include the following general information in each grant or cooperative agreement:
 - i) Recipient name (which must match the name associated with its unique entity identifier as defined at 2 CFR 25.315);
 - ii) Recipient's unique entity identifier;
 - iii) Unique Federal Award Identification Number (FAIN);
 - iv) Federal Award Date (see Federal award date in 2 CFR 200.201);
 - v) Period of Performance Start and End Date;
 - vi) Budget Period Start and End Date;
 - vii) Amount of Federal Funds Obligated by this action;
 - viii) Total Amount of Federal Funds Obligated;
 - ix) Total Approved Cost Sharing, or Matching, where applicable;

- x) Total Amount of the Federal Award including approved Cost Sharing or Matching;
- xi) Budget Approved by HUD;
- xii) Federal Award Description (to comply with statutory requirements (e.g., FFATA);
- xiii) Name of Federal Awarding Agency and Contact Information for awarding official;
- xiv) Assistance Listings Number and Title;
- xv) Identification of whether the award is Research and Development (R&D); and
- xvi) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

D. GENERAL TERMS AND CONDITIONS

1. HUD must incorporate general terms and conditions either in the Federal award or by reference, as applicable.
2. HUD's general terms and conditions may be found on the Grants Information page at <https://www.hud.gov>.
3. The requirements for all HUD's competitive grant programs have been incorporated directly into the agency's Notice of Funding Opportunity (NOFO) template.
4. The general terms and conditions must include:
 - a. Administrative requirements in 2 CFR part 200 as implemented by HUD;
 - b. National policy requirements, including statutory, executive order, other Presidential directive or regulatory requirements that apply by specific reference and are not program-specific which are made applicable to recipients (i.e., Program Offices should include specific conditions relating to the recipient's compliance with Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), if the recipient will be using the award in connection with the provision of electronic information and information technology);
 - c. Recipient integrity and performance matters; if the total Federal share of the award may include more than \$500,000 over the period of performance, HUD must include the term and condition available in Appendix XII of 2 CFR part 200 – Award Term and Conditions for Recipient Integrity and Performance Matters. See also 2 CFR 200.113 Mandatory disclosures;

- d. Future budget periods; if it is anticipated that the period of performance will include multiple budget periods, HUD must indicate that subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance with the terms and conditions of the Federal award.
- e. Termination provisions; HUD must make recipients aware, in a clear and unambiguous manner, of the termination provisions in §200.340, including the applicable termination provisions in the HUD’s regulations or in each Federal award. See Section 4-5 of this Handbook for details on terminating awards.
- f. A statement requiring applicable requirements on sub-recipients and contractors under grants or sub-awards;
- g. How any program income earned under the award must be used; and
- h. An indication whether the Federal award amount is subject to adjustment based on total allowable costs incurred and the value of third-party in-kind contributions (i.e., if there are disallowed costs or contributions).
- i. The Federal award must incorporate, by reference, all general terms and conditions of the award, which must be maintained on the agency’s website.

E. PROGRAM-SPECIFIC TERMS AND CONDITIONS (2 CFR 200.211(d))

- 1. Program Offices must include any program-specific terms and conditions (i.e., program requirements) into the award agreement necessary to communicate requirements that are in addition to the requirements outlined in HUD’s general terms and conditions.
- 2. These may include, for example, time requirements for project commitments, development and occupancy. They may also include additional reporting requirements after the period of performance as required by statute or regulations.
- 3. Whenever practicable, these program-specific terms and conditions should be shared on a public Web site and in NOFOs, in addition to being included in the grant agreement or cooperative agreement.

F. AWARD SPECIFIC TERMS AND CONDITIONS (2 CFR 200.208)

- 1. HUD is responsible for ensuring that specific Federal award conditions are consistent with the program design reflected in 2 CFR 200.202 and include clear performance expectations of recipients as required in 2 CFR 200.301.
- 2. HUD may adjust specific Federal award conditions for awards by HUD Program Offices as needed, as described in 2 CFR 200.208.

3. Based on the risk posed by applicants as determined through the pre-award risk assessment, Program Offices may require specific award conditions either at the time of a new or renewal award. Program Offices may also impose specific award conditions based on non-compliance during the administration of the award under 2 CFR 200.208 and 200.339. Specific terms and conditions might be imposed based on the analysis of the following factors:
 - a. Based on the criteria set forth in section 200.206;
 - b. The recipient's history of compliance with the general or specific terms and conditions of the Federal award;
 - c. The recipient's ability to meet expected performance goals as described in 2 CFR 200.211; or
 - d. A responsibility determination of a recipient.
4. These additional Federal award conditions may include items such as the ones depicted in the graphic below:
 - a. Requiring payments as reimbursements rather than advance payments;
 - b. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period;
 - c. Requiring additional, more detailed financial reports;
 - d. Requiring additional project monitoring;
 - e. Requiring the recipient to obtain technical or management assistance; or
 - f. Establishing prior approvals.
5. If a Program Office is imposing additional requirements, the Program Office must notify the applicant or recipient as to:
 - a. The nature of the additional requirements;
 - b. The reason why the additional requirements are being imposed;
 - c. The nature of the action needed to remove the additional requirements, if applicable;
 - d. The time allowed for completing the actions, if applicable; and
 - e. The method for requesting reconsideration of the additional requirements imposed.
6. Any additional requirements must be promptly removed once the conditions that prompted them have been satisfied.

3-4: Transmission of Award

1. The grant agreement or cooperative agreement must be signed (or its electronic equivalent under the Electronic Signatures in Global and National Commerce Act – P.L. 106-229) by an authorized grants management official with the delegated authority to obligate the Federal funds.
2. The award package sent by U.S. Mail or electronically to the recipient must include the grant agreement or cooperative agreement, and/or requisite financial forms needed to draw down funds. The award letter for the package will provide specific instructions to the recipient and providing a date certain and method for the return to HUD.
3. If a recipient fails to properly respond (i.e., sign and return the agreement) and HUD has tried to obtain the required response from the recipient, HUD may withdraw the offer.
4. As HUD continually moves toward implementation of electronic transmittal, it is anticipated that paper documents will not have to be sent to recipients. It is envisioned that transmission, return and receipt of documents will occur electronically, and documents can be viewed and managed online.