

SUBCHAPTER B—DoD GRANT AND AGREEMENT REGULATIONS

PART 21—DoD GRANTS AND AGREEMENTS—GENERAL MATTERS

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Subpart A—Defense Grant and Agreement Regulatory System

§21.100 Scope.

The purposes of this part, which is one portion of the DoD Grant and Agreement Regulations (DoDGARs), are to:

- (a) Provide general information about the DoDGARs.
- (b) Set forth general policies and procedures related to DoD Components' overall management of functions related to grants and cooperative agreements.

§21.105 Authority, purpose, and issuance.

(a) DoD Directive 3210.6¹ established the Defense Grant and Agreement Regulatory System (DGARS). The directive authorized publication of policies and procedures comprising the DGARS in the DoD Grant and Agreement Regulations (DoDGARs), in DoD instructions, and in other DoD publications, as appropriate. Thus, the DoDGARs are one element of the DGARS.

(b) The purposes of the DoDGARs, in conjunction with other elements of the DGARS, are to provide uniform policies and procedures for grants and cooperative agreements awarded by DoD Components, in order to meet DoD needs for:

(1) Efficient program execution, effective program oversight, and proper stewardship of Federal funds.

(2) Compliance with relevant statutes; Executive orders; and applicable guidance, such as Office of Management and Budget (OMB) circulars.

(3) Collection from DoD Components, retention, and dissemination of management and fiscal data related to grants and agreements.

(c) The Director of Defense Research and Engineering, or his or her designee:

(1) Develops and implements DGARS policies and procedures.

(2) Issues and maintains the DoD Grant and Agreement Regulations and other DoD publications that comprise the DGARS.

§21.110 Applicability and relationship to acquisition regulations.

(a) *Applicability to grants and cooperative agreements.* The DoD Grant and Agreement Regulations (DoDGARs) apply to all DoD grants and cooperative agreements.

¹Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Authorized users may also obtain copies from the Defense Technical Information Center, 8725 John J. Kingman Rd., Suite 0944, Fort Belvoir, VA 22060-6218.

(b) *Applicability to other nonprocurement instruments.* (1) In accordance with DoD Directive 3210.6, the DoDGARs may include rules that apply to other nonprocurement instruments, when specifically required in order to implement a statute, Executive order, or Governmentwide rule that applies to other nonprocurement instruments, as well as to grants and cooperative agreements. For example, the rule on nonprocurement debarment and suspension in 32 CFR part 25, subparts A through E, applies to all nonprocurement transactions, including grants, cooperative agreements, contracts of assistance, loans and loan guarantees (see definition of “primary covered transaction” at 32 CFR 25.110(a)(1)(i)).

(2) The following is a list of DoDGARs rules that apply not only to grants and cooperative agreements, but also to other types of nonprocurement instruments:

(i) Requirements for reporting to the Defense Assistance Award Data System, in subpart C of this part.

(ii) The rule on nonprocurement debarment and suspension in 32 CFR part 25, subparts A through E.

(iii) Drug-free workplace requirements in 32 CFR part 25, subpart F.

(iv) Restrictions on lobbying in 32 CFR part 28.

(v) Administrative requirements for grants, cooperative agreements, and other financial assistance to:

(A) Universities and other nonprofit organizations, in 32 CFR part 32.

(B) State and local governments, in 32 CFR part 33.

(3) Grants officers should be aware that each rule that applies to other types of nonprocurement instruments (i.e., other than grants and cooperative agreements) states its applicability to such instruments. However, grants officers must exercise caution when determining the applicability of some Governmentwide rules that are included in the DoDGARs, because a term may be defined differently in a Governmentwide rule than it is defined elsewhere in the DoDGARs. For example, the Governmentwide implementation of the Drug-Free Workplace Act of 1988 (32 CFR part 25, subpart F) states that it applies to grants, but defines “grants” to include cooperative agree-

ments and other forms of financial assistance.

(c) *Relationship to acquisition regulations.* The Federal Acquisition Regulation (FAR) (48 CFR parts 1-53), the Defense Federal Acquisition Regulation Supplement (DFARS) (48 CFR parts 201-270), and DoD Component supplements to the FAR and DFARS apply to DoD Components’ procurement contracts used to acquire goods and services for the direct benefit or use of the Federal Government. Policies and procedures in the FAR and DFARS do not apply to grants, cooperative agreements, or other nonprocurement transactions unless the DoDGARs specify that they apply.

§21.115 Compliance and implementation.

The Head of each DoD Component that awards or administers grants and cooperative agreements, or his or her designee:

(a) Is responsible for ensuring compliance with the DoDGARs within that DoD Component.

(b) May authorize the issuance of regulations, procedures, or instructions that are necessary to implement DGARS policies and procedures within the DoD Component, or to supplement the DoDGARs to satisfy needs that are specific to the DoD Component, as long as such regulations, procedures, or instructions do not impose additional costs or administrative burdens on recipients or potential recipients. Heads of DoD Components or their designees shall establish policies and procedures in areas where uniform policies and procedures throughout the DoD Component are required, such as for:

(1) Requesting class deviations from the DoDGARs (see §21.125) or exemptions from the provisions of 31 U.S.C. 6301 *et seq.*, that govern the appropriate use of contracts, grants, and cooperative agreements (see 32 CFR 22.220).

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

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