

§ 3015.2

required by Executive Order 12372 for any programs listed in the FEDERAL REGISTER as covered, and policy on competition in awarding discretionary grants and cooperative agreements.

(3) Rules for grants and cooperative agreements to State and local governments are found in part 3016 of this chapter.

(4) Rules for grants and cooperative agreements to institutions of higher education, hospitals, and other non-profit organizations are found in part 3019 of this chapter.

(b) These rules supersede and take precedence over any individual USDA agency regulations and directives dealing with the administration of grants and cooperative agreements to the extent such regulations and directives are inconsistent with this part, unless such inconsistency is based on a statutory provision or an exception has been obtained from OMB. (See §3015.3.) Definitions for the terms used in this part are set forth in Appendix A. Definitions for the implementation of standard audit requirements for State and local governments and Indian Tribal governments are contained in Subpart I—Audits.

(c) The purpose of this part is to simplify, standardize, and improve the administration of USDA grants and cooperative agreements.

(d) Responsibility for developing and interpreting the material for this part and in keeping it up-to-date is delegated to the Office of the Chief Financial Officer.

[46 FR 55639, Nov. 10, 1981, as amended at 62 FR 45949, Aug. 29, 1997; 65 FR 49479, Aug. 14, 2000]

§ 3015.2 Applicability.

(a) *Grants and cooperative agreements.* This part applies to USDA grants and cooperative agreements. For each substantive provision in this part, either the words of the provision itself or other words in the same subpart tell whether the provision applies to subgrants. Exemptions to this part may be applicable to certain kinds of recipients. (See paragraph (d) of this section.)

(b) *Terminology applicable to this part.* This part's substantive rules are the same for grants and cooperative agree-

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ments. Many of the rules are also the same for subgrants. Therefore, certain simplified terminology is used in the text. Specifically in all portions of this part:

(1) Each provision that applies to *grants* also applies to *cooperative agreements*, even though the latter term does not appear in the provisions.

(2) Each provision that applies to *recipients of grants* applies to *recipients of cooperative agreements*, even though the latter term does not appear in the provision.

(3) The term *recipient* refers equally to recipients of grants and recipients of cooperative agreements.

(4) The term *awarding agency* refers equally to a USDA agency that awards a grant and to one that awards a cooperative agreement.

(5) The term *subgrant* refers equally to certain awards under grants and to the same kinds of awards under cooperative agreements.

(c) *Public institutions of higher education and hospitals.* Grants, cooperative agreements and subgrants awarded to institutions of higher education and hospitals operated by a government are subject only to the provisions of this part that apply to non-governmental organizations.

(d) *Recipients to which this part does not automatically apply.* This part does not automatically apply to the kinds of recipients listed below unless other conditions set forth in the grant, cooperative agreement, subgrant, or specific subpart in this part make all or specified portions apply:

(1) Foreign governments or organizations,

(2) International organizations, such as the United Nations,

(3) Agencies or instrumentalities of the Federal government,

(4) Individuals,

(5) State and local governments, and

(6) Institutions of higher education, hospitals and other non-profit organizations.

(e) *Collaborative arrangements.* (1) Where permitted by the terms of the award, a recipient may enter into collaborative arrangements with other organizations to jointly carry out activities with grant or cooperative agreement funds. In this kind of situation,

the arrangement between the recipient and each collaborating organization is subject to the rules in this part that apply to subgrants awarded by the recipients. (See the example shown in § 3015.195.)

(2) This paragraph (e) does not apply to arrangements where the organizations receive an award jointly. In this case, they are not a recipient and sub-recipient but, as the award notice states, joint recipients.

[46 FR 55639, Nov. 10, 1981, as amended at 53 FR 8044, Mar. 11, 1988; 65 FR 49480, Aug. 14, 2000]

§ 3015.3 Conflicting policies and deviations.

(a) *Statutory provisions.* Federal statutes that apply to some USDA grant programs may contain provisions that conflict with this part. Those statutory provisions take precedence over this part.

(b) *Nonstatutory provisions.* USDA awarding agencies occasionally develop grant provisions that are inconsistent with this part. USDA attempts to keep these provisions to a minimum by internal procedures that require these provisions to be justified to appropriate officials of USDA and OMB. If the conflicting provisions are of long-term and general applicability, O&F may require that the awarding agency (1) publish the conflicting provision as a notice in the FEDERAL REGISTER and (2) give the public an opportunity to comment before making the regulations final.

(c) *Nonstatutory provisions-subgrants.* If a provision of a subgrant conflicts with this part, the recipient is considered as violating the provisions of the grant, unless the subgrant provision is authorized in writing, by the awarding agency.

(d) *OMB exceptions.* In some cases, OMB grants exceptions from the requirements of the Circulars, when permissible under existing laws. In those instances where a program receives an exception to a particular provision of a Circular, the exception takes precedence over this part.

§ 3015.4 Special restrictive terms.

(a) Occasionally an awarding agency, or a recipient awarding a subgrant, may find that a particular recipient:

- (1) Is financially unstable,
- (2) Has a history of poor performance, or
- (3) Has a management system that does not meet the standards in this part.

In these cases the awarding agency may impose special conditions that are more restrictive than otherwise permitted by this part. If so, the awarding agency must tell the recipient in writing why it is imposing the special conditions and what corrective action is needed.

(b) At the time an awarding agency imposes a special grant condition under paragraph (a) of this section, the awarding agency, through O&F, shall notify OMB and other interested parties.

(c) At the time a recipient imposes a special restrictive subgrant condition under paragraph (a) of this section, it must notify the awarding agency, giving full particulars. The awarding agency, through O&F, shall then notify OMB and other interested parties.

(d) A special restrictive grant or subgrant condition under paragraph (a) of this section is considered consistent with this part.

Subpart B—Cash Depositories

§ 3015.10 Physical segregation and eligibility.

Except as provided in § 3015.11, awarding agencies shall not impose grant or subgrant conditions which:

- (a) Require the recipient to use a separate bank account for the deposit of grant or subgrant funds, or
- (b) Establish any eligibility requirements for banks or other financial institutions in which recipients deposit grant or subgrant funds.

§ 3015.11 Separate bank accounts.

A separate bank account shall be required when applicable letter of credit agreements provide that funds will not be drawn until the recipient's checks are presented to the bank for payment.