

## **Preliminary Policy on Cash Management**

### **References:**

Workforce Innovation and Opportunity Act, Sec. 184 and Sec. 195; [31 CFR Part 205](#); [31 CFR Part 208](#); 29 CFR 95.22; 29 CFR 97.21; [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule](#); and the One-Stop Comprehensive Financial Management Technical Assistance Guide.

### **Background:**

Cash management involves minimizing the time between the transfer of federal funds and the payment of bills generated by the grant.

All entities that received **funds issued on or after December 26, 2014**, are bound by the cash management requirements of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards Final Rule (Uniform Guidance).

All entities that received **funds issued prior to December 26, 2014, and** which will have funding actions, allotments, or incremental funding actions taking place after December 26, 2014, are bound by the cash management requirements of the Uniform Guidance for the **new funds only**.<sup>1</sup>

All entities that received **funds issued prior to December 26, 2014, and which will not** have additional funding actions taking place after December 26, 2014, may continue to follow the terms and conditions as outlined in their award documents, including the cash management requirements of 29 CFR 97.21 (for governmental agencies) and 29 CFR 95.22 (for institutions of higher education (not a part of State government), hospitals and other nonprofit organizations, and commercial entities).<sup>2</sup>

Regardless of when a grant was received, entities that receive federal funds are also subject to the cash management regulations at 31 CFR Part 205 [Rules and Procedures for Efficient Federal-State Fund Transfers] implementing the Cash Management Improvement Act of 1990 (CMIA).

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<sup>1</sup> <http://doleta.gov/grants/UniformGuidance.cfm>

<sup>2</sup> *Id.*

**Policy:**

This policy addresses issues in Nebraska's subgrantee/non-Federal entity payment system. Subgrantees/non-Federal entities must demonstrate that they maintain procedures to support federal cash management requirements.

**Definitions**

"Non-Federal entity" means a State, local government, Indian tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.<sup>3</sup> [The City of Omaha, City of Lincoln, State of Nebraska, Heartland Workforce Solutions \(HWS\), and Goodwill Industries, as subrecipients of WIOA funds, are considered "non-Federal entities."](#)

"Pass-through entity" means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.<sup>4</sup> [If the non-Federal entity for the local area provides a subaward to a subrecipient to carry out part of a Federal program, the subrecipient is considered a "pass-through entity." The State of Nebraska, the City of Omaha, and HWS are pass-through entities.](#)

"Subrecipient" means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a federal program. A subrecipient may also be a recipient of other federal awards directly from a federal awarding agency.<sup>5</sup> [HWS, as a non-Federal entity that receives a subaward from the City of Omaha, is a subrecipient. Goodwill Industries, as a non-Federal entity that receives a subaward from HWS, is also a subrecipient.](#)

"Subaward" means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.<sup>6</sup>

"Contractor" means an entity that receives a legal instrument (i.e., contract) by which a non-Federal entity purchases property or services needed to carry out the project or program under a federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a federal award or subaward.<sup>7</sup>

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<sup>3</sup> 2 CFR § 200.69

<sup>4</sup> 2 CFR § 200.74, A-133 § \_\_\_\_\_.105

<sup>5</sup> 2 CFR § 200.93

<sup>6</sup> 2 CFR § 200.92

<sup>7</sup> 2 CFR § 200.22 and 200.23

“Subgrantee” is a term that applies to 29 CFR Part 97 (applicable to funds not subject to the Uniform Guidance received by state and local government), and means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of the funds provided.<sup>8</sup>

### **Subrecipient/Contractor Determination**

The subgrantee/non-Federal entity may concurrently receive federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with federal awarding agencies and pass-through entities. Payments received for goods or services provided as a contractor are not federal awards.<sup>9</sup> Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.<sup>10</sup>

<b>Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:</b>	<b>Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:</b>
Determines who is eligible to receive what Federal assistance	Provides the goods and services within normal business operations
Has its performance measured in relation to whether objectives of a Federal program were met	Provides similar goods or services to many different purchasers
Has responsibility for programmatic decision making	Normally operates in a competitive environment
Is responsible for adherence to applicable Federal program requirements specified in the federal award	Provides goods or services that are ancillary to the operation of the Federal program
In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity. <sup>11</sup>	Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons. <sup>12</sup>

<sup>8</sup> 29 CFR § 97.3

<sup>9</sup> 2 CFR § 200.330, 2 CFR § 200.501(f)

<sup>10</sup> 2 CFR § 200.330

<sup>11</sup> 2 CFR § 200.330(a)

<sup>12</sup> 2 CFR § 200.330(b)

In determining whether an agreement between a pass-through entity and another subgrantee/non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.<sup>13</sup>

### **Minimize Cash on Hand**

Regardless of when grant funds were issued, subgrantees/non-Federal entities shall disburse repayments to and interest earned on a revolving fund before requesting additional cash payments for the same activity.<sup>14</sup> Subgrantees/non-Federal entities shall disburse program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.<sup>15</sup>

### **Cash Advances**

#### **Funds Received Before December 26, 2014**

Subgrantees/non-Federal entities shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures that are in accordance with Department of Treasury regulations at 31 CFR Part 205.<sup>16</sup> These procedures identify funding techniques that effectively minimize cash on hand. If this standard is not met, then reimbursement is the preferred method.

Cash advances shall be limited to the minimum amounts needed.<sup>17</sup>

To the maximum extent feasible, subgrantees/non-Federal entities shall be provided advance payments via electronic funds transfer (EFT). This procedure has substantially reduced the time needed to receive cash.

#### **Funds Received on or After December 26, 2014**

For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the subgrantee/non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. Except as noted elsewhere in the Uniform Guidance, Federal agencies must require recipients to use only Office of Management and Budget (OMB)-approved standard governmentwide information collection requests

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<sup>13</sup> 2 CFR § 200.330(c)

<sup>14</sup> 29 CFR § 97.21(f)

<sup>15</sup> 2 CFR § 200.305(b)(5), 29 CFR § 95.22(g), 29 CFR § 97.21(f)(2)

<sup>16</sup> 29 CFR § 95.22(b), 29 CFR § 97.21(c)

<sup>17</sup> 29 CFR § 95.22(b)

to request payment.<sup>18</sup> The financial management system of each subgrantee/non-Federal entity must provide written procedures to implement the requirements of § 200.305 of the Uniform Guidance.<sup>19</sup>

The subgrantee/non-Federal entity shall be paid in advance, provided it maintains or demonstrates a willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the subgrantee/non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in the Uniform Guidance. Advance payments to a subgrantee/non-Federal entity must be limited to the minimum amounts needed and be timed in accordance with the actual, immediate cash requirements of the subgrantee/non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the subgrantee/non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The subgrantee/non-Federal entity must make timely payments to contractors in accordance with the contract provisions.<sup>20</sup>

Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all federal awards made by the federal awarding agency to the recipient.<sup>21</sup>

Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer (EFT) and must comply with applicable guidance in 31 CFR 208 [Management of Federal Agency Disbursements]. To the maximum extent feasible, subgrantees/non-Federal entities shall be provided advance payments via EFT.

Subgrantee/non-Federal entities must be authorized to submit requests for payments and reimbursements at least monthly when EFTs are not used, and as often as they like when EFTs are used, in accordance with the [Electronic Fund Transfer Act \(15 USC 1693-1693r\)](#).<sup>22</sup>

### **Reimbursement Method**

In all cases, reimbursement is the method of payment to be used when the subgrantee/non-Federal entity is unwilling or unable to comply with the specified cash management practices.<sup>23</sup> Each subgrantee/non-Federal entity shall be paid as promptly as possible after receipt of a proper request for reimbursement.

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<sup>18</sup> 2 CFR § 200.305(b)

<sup>19</sup> 2 CFR § 200.302

<sup>20</sup> 2 CFR § 200.305(b)(1)

<sup>21</sup> 2 CFR § 200.305(b)(2)(i)

<sup>22</sup> 2 CFR § 200.305(b)(2)(ii)

<sup>23</sup> 2 CFR § 200.305(b)(3) 29 CFR § 95.22(e), 29 CFR § 97.21(d)

#### Funds Received on or After December 26, 2014

Reimbursement is the method of payment to be used when the subgrantee/non-Federal entity is unwilling or unable to comply with the specified cash management practices. Reimbursement is also the preferred method when the awarding agency sets a specific condition per §200.207 Specific conditions of the Uniform Guidance, or when the subgrantee/non-Federal entity requests payment by reimbursement. This method may be used on any federal award for construction, or if the major portion of the construction project is accomplished through private market financing or federal loans, and the federal award constitutes a minor portion of the project. When the reimbursement method is used, the federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the federal awarding agency or pass-through entity reasonably believes the request to be improper.<sup>24</sup>

#### **Working Capital Advance Method**

#### Funds Received Before December 26, 2014

If it is determined that the subgrantee/non-Federal entity lacks sufficient working capital, this method may be used in place of the reimbursement method. It is a method for advancing funds to a subgrantee/non-Federal entity to cover its estimated disbursement needs for an initial period. Thereafter, the awarding agency shall reimburse the subgrantee/non-Federal entity for its actual cash disbursements.<sup>25</sup>

The working capital advance method of payment shall not be used by grantees or subgrantees/non-Federal entities if the reason for using such method is the unwillingness or inability of the grantee to provide timely advances to the subgrantee/non-Federal entity to meet the subgrantee's/non-Federal entity's actual cash disbursements.<sup>26</sup>

#### Funds Received on or After December 26, 2014

If the subgrantee/non-Federal entity cannot meet the criteria for advance payments and the federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the subgrantee/non-Federal entity lacks sufficient working capital, the federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the federal awarding agency or pass-through entity must advance cash payments to the subgrantee/non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the subgrantee's/non-Federal entity's disbursing cycle. Thereafter, the federal awarding agency or pass-through entity must reimburse the subgrantee/non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity

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<sup>24</sup> 2 CFR § 200.305(b)(3)

<sup>25</sup> 29 CFR § 95.22(f), 29 CFR § 97.21(e)

<sup>26</sup> *Id.*

provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.<sup>27</sup>

## **Cash Depositories**

### **Funds Received Before December 26, 2014**

Subgrantees/non-Federal entities are encouraged to use minority-owned banks (a bank which is owned at least 50 percent by minority group members).<sup>28</sup>

A subgrantee/non-Federal entity shall not be required to maintain a separate bank account, but shall separately account for each funding source.<sup>29</sup> Subgrantees/non-Federal entities must deposit federal funds in an institution with federal deposit coverage. Funds shall be held in interest bearing accounts unless the depository requires an average or minimum balance so high that it is not feasible.<sup>30</sup>

### **Funds Received on or After December 26, 2014**

Standards governing the use of banks and other institutions as depositories of advance payments under federal awards are as follows:

- The federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a subgrantee/non-Federal entity or establish any eligibility requirements for depositories for funds provided to the subgrantee/non-Federal entity. However, the subgrantee/non-Federal entity must be able to account for the receipt, obligation and expenditure of funds
- Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.<sup>31</sup>

## **Interest Retention and Remittance**

Advance payments of Federal funds must be deposited into interest-bearing accounts, unless:

- the subgrantee/non-Federal entity receives less than \$120,000 in federal awards per year;
- the best reasonably available interest-bearing account would not be expected to earn interest in excess of the amount set forth below that the entity may retain for administrative expenses;

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<sup>27</sup> 2 CFR § 200.305(b)(4)

<sup>28</sup> 29 CFR § 95.22(j), 29 CFR § 97.21(h)

<sup>29</sup> 29 CFR § 95.22(i)(1),

<sup>30</sup> 29 CFR § 95.22(k)

<sup>31</sup> 2 CFR § 200.305(b)(7)

- the depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources; or
- (for funds received **on or after December 26, 2014**) foreign government or banking system prohibits or precludes interest bearing accounts.<sup>32</sup>

Interest earned on advances of Federal funds is not program income.<sup>33</sup>

#### Funds Received Before December 26, 2014

Interest amounts up to \$250 per year may be retained by the recipient for administrative expense. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from DOL, it waives its right to recover the interest under CMIA. Interest should be remitted to the HHS Payment Management System through an electronic medium such as the Fedwire Deposit system. Recipients who do not have this capability should use a check.<sup>34</sup>

#### Funds Received on or After December 26, 2014

Interest earned amounts up to \$500 per year may be retained by the subgrantee/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.<sup>35</sup> Instructions for submission of remittances through an electronic medium or otherwise, including information on account and routing numbers, are listed in the Uniform Guidance § 200.305(b)(9)(i) through (v).

### **Withholding Payments**

#### Funds Received on or After December 26, 2014

Unless otherwise required by federal statute, awarding agencies shall not withhold payments for proper charges incurred by subgrantees/non-Federal entities unless the subgrantee/non-Federal entity has failed to comply with grant award conditions or the

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<sup>32</sup> 2 CFR §200.305(b)(8), 29 CFR §95.22(k)

<sup>33</sup> 2 CFR § 200.80

<sup>34</sup> 29 CFR §95.22(k)

<sup>35</sup> 2 CFR § 200.305(b)(9)



subgrantee/non-Federal entity is indebted to the United States.<sup>36</sup> Cash withheld for failure to comply with a grant award condition, but without suspension of the grant, shall be released to the subgrantee/non-Federal entity upon subsequent compliance.<sup>37</sup>

#### Funds Received on or After December 26, 2014

Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§200.207 Specific conditions, Subpart D—Post Federal Award Requirements of the Uniform Guidance, 200.338 Remedies for Noncompliance, or one or more of the following applies:

- The subgrantee/non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the federal award.
- The subgrantee/non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A-129, “Policies for Federal Credit Programs and Non-Tax Receivables.” Under such conditions, the federal awarding agency or pass-through entity may, upon reasonable notice, inform the subgrantee/non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the federal government is liquidated.
- A payment withheld for failure to comply with federal award conditions, but without suspension of the federal award, must be released to the subgrantee/non-Federal entity upon subsequent compliance. When a federal award is suspended, payment adjustments will be made in accordance with §200.342 Effects of suspension and termination.
- A payment must not be made to a subgrantee/non-Federal entity for amounts that are withheld by the subgrantee/non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the subgrantee/non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.<sup>38</sup>

#### **Monitoring Local Cash Management Practices**

State monitors shall review daily cash balances as part of their regularly scheduled cash management review process. If potential problems are noted, corrective action shall be required.

#### **Disclaimer:**

This policy is based on NDOL’s reading of the statute along with the Notice of Proposed Rulemaking released by USDOL. This policy may be subject to change as additional

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<sup>36</sup> 29 CFR § 95.22(h), 29 CFR § 97.21(g)(1)

<sup>37</sup> 29 CFR § 97.21(g)(2)

<sup>38</sup> 2 CFR § 200.305(b)(6)

federal regulations and TEGLs are released. This policy is not intended to be permanent and should be viewed as a placeholder until final federal regulations are released in early 2016.