

APPENDIX A

Guidance for Federal Spending Transparency: Subaward and Executive Compensation Data Reporting Requirements for FFATA Implementation

A. GENERAL OVERVIEW

1. What are the main components of this guidance?

This Guidance outlines the requirements for Federal Agencies and prime contractors and prime grant and cooperative agreement¹ awardees (collectively “prime awardees”) for reporting subaward and executive compensation data pursuant to the Federal Funding Accountability and Transparency Act of 2006 and associated 2008 amendments (the “Transparency Act” or “FFATA”). This Guidance specifically delineates Transparency Act reporting requirements related to Federal grants. Detailed reporting requirements related to Federal contracts are located in the FAR Interim Final Rule, published on July 8, 2010.²

2. What Transparency Act requirements are met by this Guidance?

The Transparency Act requires information disclosure concerning entities receiving Federal financial assistance through Federal awards such as Federal contracts, sub-contracts, grants, and sub-grants. See 31 U.S.C. 6101 note.

Specifically, the Transparency Act’s section 2(b)(1) requires the Office of Management and Budget (“OMB”) to ensure the establishment of a publicly available website that contains the following information about each Federal award:

- name of the entity receiving the award;
- amount of the award;
- information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number, program source,³ award title descriptive of the purpose of each funding action;
- location of the entity receiving the award and primary location of performance under the award, including city, State, congressional district, and country;
- unique identifier of the entity receiving the award and the parent entity of the recipient, should the entity be owned by another entity;⁴ and
- names and total compensation of the five most highly compensated officers of the entity if the entity in the preceding fiscal year received 80 percent or more of its annual gross

¹ For the purposes of this Guidance, subsequent use of the term “grants” will include reference to both grants and cooperative agreements.

² <http://www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b14fa4>

³ Treasury Account Symbol (TAS) will continue to be used as the official Program Source. See OMB M-09-19 at 12.

⁴ Unique identifier used is the entity’s Dun & Bradstreet (D&B) DUNS Number. See OMB M-09-19 at 11.

revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1).

Beginning October 1, 2010, this Guidance directs compliance with the Transparency Act to report prime and first-tier subaward data. Federal agencies and prime awardees will report to ensure disclosure of Federal contract and grant subaward and executive compensation data.

This Guidance and accompanying Awardee Reporting Architecture also fulfill the requirements delineated in OMB's April 6, 2010 Memorandum.⁵ The Awardee Reporting Architecture documents how the existing systems and reporting requirements to USASpending.gov and FederalReporting.gov are leveraged to minimize burden to both Federal agencies and prime awardees, while ensuring compliance with the Transparency's Act requirements for disclosure.

3. What other documents are associated with the October 1, 2010 implementation of the Transparency Act's subaward and executive compensation data reporting?

In addition to this Guidance and associated Awardee Reporting Architecture, other relevant documents critical to the October implementation of subaward and executive compensation data reporting related to Federal contracts and grants include:

- The FAR Interim Final Rule implementing requirements for reporting associated with Federal contracts, pursuant to the Transparency Act, *available at* www.regulations.gov/search/Regs/home.html#documentDetail?R=0900006480b14fa4;
- Interim Final Guidance for Grants, providing standard terms and conditions for grants-related reporting, pursuant to the Transparency Act;
- Final guidance for Grants, requiring prime grant awardee registration into the Central Contractor Registration System ("CCR");
- Paperwork Reduction Act Information Collection of Central Contractor Registration Requirements for Prime Grant Recipients, OMB Control No. 3090-0290, *available at* <http://www.reginfo.gov/public/do/PRAMain>;
- Paperwork Reduction Act Information Collection of FSRS Registration and Prime Awardee Entity-Related Information Reporting Requirements which will collect subaward and executive compensation data, pursuant to the Transparency Act, OMB Control No. 3090-0291, *available at* <http://www.reginfo.gov/public/do/PRAMain>;
- Paperwork Reduction Act Information Collection of FFATA Subaward and Executive Compensation Reporting Requirements, OMB Control No. 3090-0292, *available at* <http://www.reginfo.gov/public/do/PRAMain>.

⁵ http://www.whitehouse.gov/omb/assets/open_gov/OpenGovernmentDirective_04062010.pdf

B. CURRENT REPORTING PURSUANT TO THE TRANSPARENCY ACT AND THE RECOVERY ACT

Currently, prime contractors and prime recipients may be subject to reporting requirements under the Transparency Act, American Recovery and Reinvestment Act (“Recovery Act”), or both.

1. When a Federal contract is awarded, what are the current requirements for reporting?

Reporting requirements for Federal contracts, including those awarded under the Recovery Act, are outlined in the Federal Acquisition Regulation as well as supplemental policy documents. Information related to Federal contracts and contractors is maintained in a variety of systems. References and additional information may be found through www.acquisition.gov.

2. When a Federal grant is awarded, what are the Federal agencies’ current requirements for reporting?

Pursuant to the Transparency Act, Federal agencies are directed to report Federal grant data to USASpending.gov, to ensure compliance with FFATA. Specifically, agencies submit data elements in the FAADS PLUS (“FAADS+”) format, which includes data in the existing Federal Assistance Award Database System (“FAADS”), plus additional data elements required by the Transparency Act and the Recovery Act, respectively. *See* OMB M-09-19, § 7. The information provided in the FAADS+ file is used to populate prime awardee information in USASpending.gov, pursuant to the Transparency Act.

For compliance with Section 1512 of the Recovery Act,⁶ FederalReporting.gov requires quarterly reporting of Recovery Act-funded subaward information by either the prime awardee, or, if delegated, the subawardee. *See* FederalReporting.gov User Guide, *available at* <https://www.federalreporting.gov/federalreporting/downloads.do#docs>.

⁶ Compliance with Section 1512 of the Recovery Act includes the subaward reporting requirements under the Transparency Act. Recovery Act § 1512(c)(4) (“Detailed information on any subcontracts or subgrants awarded by the recipient to include the data elements required to comply with the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282)”).

C. HOW WILL THIS GUIDANCE FURTHER THE GOALS OF THE TRANSPARENCY ACT, IN ACCORDANCE WITH THE APRIL 6, 2010 OMB MEMORANDUM?

With the implementation of this Guidance and accompanying FAR rule, the public will be able to access subaward and executive compensation data for Federal contracts and grants. This information will be available at USASpending.gov.

This Guidance furthers the goals of the Transparency Act by providing subaward and executive compensation data associated with Federal contracts and grants beginning October 2010. This Guidance also satisfies the requirements in April 6, 2010, OMB Memorandum to Senior Accountable Officials. By leveraging existing systems and platforms, the reporting requirements burden has been minimized. Further, prime awardees of either Federal contracts or grants subject to the Transparency Act will use the same system, the FFATA Subaward Reporting System (“FSRS”), to report subaward information. Use of a shared platform will reduce reporting burden associated with an entity that has been awarded both Federal contracts and grants subject to the Transparency Act.

D. WHAT IS THE SCOPE OF REPORTING REQUIREMENTS UNDER THIS GUIDANCE?

This Guidance delineates first-tier subaward and executive compensation reporting requirements associated with Federal contracts and grants awarded on or after October 1, 2010, other than those funded by the Recovery Act. Grant awards whether existing or new as of October 1, 2010 that are funded by the Recovery Act will continue to report for those awards and subawards through FederalReporting.gov and are not subject to the reporting requirements in this Guidance.

“Subawards” are defined as either subcontracts or grants-specific subawards. A “subcontract,” means a subcontract awarded directly by a contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a contractor’s general and administrative expenses or indirect cost. For grants, a “subaward” means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- A. the prime recipient awards to an eligible sub-recipient; or
- B. sub-recipient at one tier awards to a sub-recipient at the next lower tier.

Specifically, this Guidance delineates first-tier subaward and executive compensation reporting requirements associated with Federal contracts and grants as follows:

For contracts, based on the FAR Interim Final Rule published on July 8, 2010:

- Until September 30, 2010, any newly awarded subcontract must be reported if the prime contract award amount was \$20,000,000 or more.

- From October 1, 2010, until February 28, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$550,000 or more.
- Starting March 1, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$25,000 or more.

For grants, both mandatory and discretionary grants, equal to or over \$25,000, and awarded on or after October 1, 2010 must be reported by the prime awardee. The following are not subject to the Transparency Act's reporting requirements:

- Grants, whether existing or new as of October 1, 2010, that are funded by the Recovery Act. Rather, such awards will continue to report those awards and related subawards through FederalReporting.gov;
- Transfers of title between Federal agencies of Federally owned property;
- Federal inter-agency transfers of award funds;
- Cooperative Research and Development Agreements (CRDAs), as defined under 15 U.S.C. 3710a;
- Federal awards to individuals who apply for or receive Federal awards as natural persons (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name);
- Federal awards to entities that had a gross income, from all sources, of less than \$300,000 in the entities' previous tax year; and
- Federal awards, if the required reporting would disclose classified information.

To facilitate transparency of Federal funds awarded through grants, OMB will consider future additional guidance related to the collection of subaward data. These may include capturing information about: procurements under grants, grant awardees' costs other than subawards and procurements, and subawards under other types of Federal financial assistance awards. To facilitate the collection of this information, improve the data quality, and enhance the overall grants management process, the major grant-making departments and agencies should make sure they have a chief grants officer or senior grants official designated.

E. WHAT ARE THE REQUIREMENTS FOR THE IMPLEMENTATION OF FEDERAL CONTRACTS SUBAWARD AND EXECUTIVE COMPENSATION DATA?

Requirements for reporting pursuant to the Transparency Act are codified in the FAR interim final rule published in the Federal Register on July 8, 2010.

F. WHAT ARE THE REQUIREMENTS FOR THE IMPLEMENTATION OF FEDERAL GRANTS SUBAWARD AND EXECUTIVE COMPENSATION DATA?

1. What grant awards are subject to the subaward and executive compensation reporting requirements of the Transparency Act?

A Federal grant is an award of financial assistance from a Federal agency to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States. Federal

grants are not federal direct assistance payments or loans to individuals. New Federal, non-Recovery Act funded grant awards with an award date on or after October 1, 2010, and resulting first-tier subawards, are subject to the reporting requirements under the Transparency Act. New Federal grants includes grants with a new Federal Award Identification Number (FAIN) as of October 1, 2010, and does not include continuing or renewals of grants awarded in prior fiscal years with new obligations beginning October 1, 2010.

In any new awards as of October 1, 2010, Federal agencies are required to include a new award term (to be published July 2010) that delineates reporting requirements pursuant to the Transparency Act. The interim final guidance with these standard terms and conditions was published in the Federal Register in July 2010.

For those new Federal grants as of October 1, 2010, if the initial award is equal to or over \$25,000, reporting of subaward and executive compensation data is required. If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award will be subject to the reporting requirements, as of the date the award exceeds \$25,000. If the initial award equals or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency Act and this Guidance.

In addition to the award amount threshold, the following are not subject to the reporting requirements in this guidance: (1) a Federal award to an individual who applies for or receives a Federal award as a natural person (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name); (2) a Federal award to an entity that had a gross income, from all sources, of less than \$300,000 in the entity's previous tax year; and (3) any award if the required reporting would disclose classified information. *See* FFATA §§ 2(a)(1)(C), 2(e), 3.

Grant awards, whether existing or new, as of October 1, 2010 that are funded by the Recovery Act will continue to report to those awards and subawards through FederalReporting.gov and are not subject to the reporting requirements in this Guidance.

2. Are there new data reporting requirements for Federal agencies under this Guidance?

No. There are no new reporting requirements associated with this Guidance for Federal agencies. Federal agencies are currently required to report on all grants through the FAADS+ submission, as required under OMB Memorandum M-09-19. Federal agencies' FAADS+ submissions will be leveraged to facilitate and minimize the burden of prime awardee reporting under this Guidance. *See* Appendix C, Proposed Grants Reporting Requirements for FFATA Implementation - Data Model.

However, while there are no new reporting requirements under this Guidance, Federal agencies are required to (1) ensure the quality of their existing FAADS+ data submissions; (2) convey to prime awardees, through revised standard terms and conditions, the requirement for subaward and executive compensation reporting. *See* Section F.4 below; and (3) communicate to prime

awardees the requirement to register in the Central Contractor Registration system, which will be implemented in an upcoming Federal Register notice.

First, Federal agencies are required to ensure the timeliness and data quality of their existing FAADS+ data submissions. The FAADS+ data will be used to pre-populate FSRS records to the maximum extent possible to facilitate prime awardee reporting of subaward and executive compensation data in FSRS. Where possible, pre-population will also ensure that prime awardees are not subject to duplicative reporting. While there are no new Federal agency reporting requirements under this Guidance, if any of the pre-populated information from FAADS+ is inaccurate, Federal agencies are required to reconcile this data with the prime awardee.

The Awardee Reporting Architecture documents which systems for existing Federal agency reporting will be leveraged to facilitate the subaward and executive compensation data reporting requirements in the Transparency Act. *See* Appendix B, Awardee Reporting Architecture.

Second, for any new awards as of October 1, 2010, Federal agencies are required to include a new award term (published July 2010) that delineates applicable reporting requirements pursuant to the Transparency Act.

Third, Federal agencies will be required to communicate to prime awardees that prime awardees will be required to register into the Central Contractor Registration System (CCR) for all new grants as of October 1, 2010. This requirement will be directed specifically in an upcoming Federal Register notice. *See* Section F.4 below.

3. Are there new reporting requirements for prime grant awardees under this Guidance?

Yes. New information required for reporting may include, as applicable:

(1) Executive compensation data for both the prime awardee and first-tier subawardee. A prime awardee is required to report the names and total compensation of the five most highly compensated officers of a prime or subawardee entity if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards and \$25,000,000 or more in annual gross revenues from Federal awards; and if the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986; and

(2) Information such as subaward entity information, subaward description/title, and date of award. *See* Appendix C. New Federal, non-Recovery Act funded grant awards with an award date on or after October 1, 2010, and resulting first-tier subawards, are subject to the reporting requirements under the Transparency Act.

For those new Federal grants as of October 1, 2010, if the initial award is equal to or over \$25,000, prime awardee must report subaward and executive compensation, if required. If the

initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award is subject to the reporting requirements, as of the date the award exceeds \$25,000. If the initial award amounts to or exceeds \$25,000 but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the award continues to be subject to the reporting requirements of the Transparency Act and this Guidance.

In addition to the award amount threshold, the following are not subject to the reporting requirements in this guidance: (1) a Federal award to an individual who applies for or receives a Federal award as a natural person (i.e., unrelated to any business or non-profit organization he or she may own or operate in his or her name); (2) a Federal award to an entity that had a gross income, from all sources, of less than \$300,000 in the entity's previous tax year; and (3) any award if the required reporting would disclose classified information. *See* FFATA §§ 2(a)(1)(C), 2(e), 3.

Grant awards, whether existing or new, as of October 1, 2010 that are funded by the Recovery Act will continue to report to those awards and subawards through FederalReporting.gov and are not subject to the reporting requirements in this Guidance.

For grants, a “subaward” means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- A. the prime recipient awards to an eligible sub-recipient; or
- B. sub-recipient at one tier awards to a sub-recipient at the next lower tier.

The term “subaward” does not include procurement of property and services needed to carry out the project or program. Further, a subaward may be provided through any legal agreement, including an agreement that the prime recipient or a sub-recipient considers a contract.

This Guidance delineates first-tier subaward requirements and does not include awards made by first-tier subawardees to lower tier subawardees.

For the full list of data elements to be collected from the prime awardee, refer to Appendix C.

To the maximum extent possible, information already collected from Federal agencies on Federal grants and prime awardees will be pre-populated to minimize duplicative reporting of the prime awardees’ entity information (e.g. address, DUNS number, executive compensation data), subawardee entity information, if available, and grant information (e.g. CFDA number, award amount, prime award description).

Federal grants funded through the Recovery Act will continue to report through FederalReporting.gov and will not be subject to the reporting requirements in this Guidance.

4. How will prime grant awardees report, in compliance with this Guidance and the Transparency Act?

Prime grant awardees will be required to register in two systems to comply with the reporting requirements in this Guidance and the Transparency Act.

First, prime grant awardees will be required to register into the Central Contractor Registration System (“CCR”) in an upcoming Federal Register notice. Currently Federal grant awardees are required to register into CCR for any grants associated with Recovery Act funding. For any new Federal grant as of October 1, 2010, prime grant awardees must ensure that they have an active registration, for the DUNS number under which the grant was made, in CCR, and provide all required information, including executive compensation data.

Second, prime grant awardees will be required to register into FSRS and report subaward and/or subawardee executive compensation data through FSRS. The Awardee Reporting Architecture documents which of the existing systems used by Federal agencies for grant reporting will be used to pre-populate prime grant awardee entity and award information. *See* Appendix B. Such pre-population will minimize prime grant awardees’ reporting burden. The Architecture also illustrates how current FederalReporting.gov reporting will be leveraged to avoid duplicative grants-related reporting for Recovery Act-funded grants.

5. Are subawardees required to report information directly into FSRS in compliance with this Guidance and the Transparency Act?

No. The prime grant awardee must report all information associated with a Federal grant, either regarding executive compensation data for prime awardees or subawardees, or any other information associated with subawards.

The subawardee, however, has an obligation to provide to the prime grant awardee all information required for such reporting. This includes subawardee entity information, subawardee DUNS number, subawardee Parent DUNS number, if applicable, and relevant executive compensation data, if applicable. If the subawardee is registered in CCR, this information may be migrated into FSRS to facilitate the prime awardee’s reporting, as required under this Guidance.

6. By when must a prime grant awardee report executive compensation data or subaward data?

For subaward reporting:

If applicable, the prime awardee must report information related to a subaward by the end of the month following the month the subaward or obligation was made.

Example 1:

Prime awards subaward on October 1, 2010

Prime must report subaward information by November 30, 2010

Example 2:

Prime awards subaward on October 31, 2010
Prime must report subaward information by November 30, 2010

For executive compensation reporting:

If applicable, the prime awardee must report its own executive compensation data by the end of the month following the month the award or obligation was made.

Example 1:

Federal agency awards grant to prime awardee on October 1, 2010
Prime awardee must report executive compensation data, if necessary, by November 30, 2010.

Example 2:

Federal agency awards grant to prime awardee on October 31, 2010
Prime awardee must report executive compensation data, if necessary, by November 30, 2010.

Similarly, the prime awardee must the subawardee's executive compensation data by the end of the month following the month the award or obligation was made.

Example 1:

Prime awards subaward on October 1, 2010
Prime awardee must report subawardee's executive compensation data, if necessary, by November 30, 2010

Example 2:

Prime awards subaward on October 31, 2010
Prime awardee must report subawardee's executive compensation data, if necessary, by November 30, 2010

7. If a prime awardee or subawardee has a Recovery Act-funded grant and reports to FederalReporting.gov, will it need to report again to comply with this Guidance and the Transparency Act's subaward and executive compensation reporting requirements?

No. No additional reporting of a Recovery Act-funded grant is required if a prime awardee, or, if delegated, a subawardee, of Federal grants reports subaward and executive compensation data into FederalReporting.gov. Because this same information can be used to satisfy the subaward and executive compensation data reporting requirements under the Transparency Act, duplicative reporting will not be required. As a result, for all Recovery Act-funded grants that are currently reported into FederalReporting.gov, this Guidance does not require any new reporting to comply with the provisions in the Transparency Act.

8. What are the data quality requirements for award, subaward and executive compensation data?

OMB will issue further data quality requirements in August 2010.