

## *Federal Funding Accountability and Transparency Act*

Aspects of the Federal Funding Accountability and Transparency Act (Pub. L. No. 109-282) (Transparency Act), as amended by Section 6202(a) of the Government Funding Transparency Act of 2008 (Pub. L. No. 111-252), that relate to subaward reporting (1) under grants and cooperative agreements were implemented as interim final guidance by OMB in 2 CFR part 170, effective October 1, 2010 (75 FR 55663 *et seq.*, September 14, 2010) and (2) under contracts, by the regulatory agencies responsible for the Federal Acquisition Regulation (FAR) in an interim rule, effective July 8, 2010 (75 FR 39414 *et seq.*, July 8, 2010). The interim final guidance and the interim rule have the same effect as final guidance or a final rule and will remain in effect until superseded by final issuances. If the final issuances include any changes to the interim requirements, they will have new effective dates. The requirements pertain to recipients (i.e., direct recipients) of grants or cooperative agreements who make first-tier subawards and contractors (i.e., prime contractors) that award first-tier subcontracts. There are limited exceptions as specified in 2 CFR part 170 and the FAR. The guidance at 2 CFR part 170 currently applies only to Federal financial assistance awards in the form of grants and cooperative agreements, e.g., it does not apply to loans made by a Federal agency to a recipient; however, the subaward reporting requirement applies to all types of first-tier subawards under a grant or cooperative agreement.

As provided in 2 CFR part 170 and FAR Subpart 4.14, respectively, Federal agencies are required to include the award term specified in Appendix A to 2 CFR part 170 or the contract clause in FAR 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards, as applicable, in awards subject to the Transparency Act.

In general, the Transparency Act reporting requirements do not apply to ARRA-funded awards, i.e., separate subaward reporting under the Transparency Act as described in this section is not required. Subawards under awards funded by ARRA will continue to be reported through [FederalReporting.gov](http://FederalReporting.gov). However, if a subaward is made using both ARRA and non-ARRA funding sources, the Section 1512 ARRA requirement applies to the ARRA-funded part of the subaward, while the Transparency Act reporting requirement applies to the non-ARRA funds. For example, if a subaward is made with \$40,000 in ARRA funding and \$30,000 in non-ARRA funding, activities related to the \$40,000 must be reported in [FederalReporting.gov](http://FederalReporting.gov); while the \$30,000 non-ARRA subaward amount must be reported in the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) (see below).

OMB has issued several documents that provide guidance on the reporting requirements under the Transparency Act (located at (<http://www.whitehouse.gov/omb/open>)). Among them are *Open Government Directive – Federal Spending Transparency* (April 6, 2010) and *Open Government Directive – Federal Spending Transparency and Subaward and Compensation Data Reporting* (August 27, 2010).

Consistent with the OMB guidance,

- [2 CFR part 170](#) defines “subaward” as a legal instrument to provide support for the performance of any portion of the substantive project or program for which a recipient received a grant or cooperative agreement award and that is awarded to an eligible subrecipient. The term does not include procurement of property and services needed to carry out the project or program. A subaward may be provided through any legal agreement, including an agreement that the recipient considers a contract.
- [FAR 52.204-10\(a\)](#) defines “first-tier subcontract” to mean 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.

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While 2 CFR part 170 and the FAR implement several distinct Transparency Act reporting requirements, including reporting of executive compensation, the Supplement addresses only the following requirements: (1) recipient reporting of each first-tier subaward or subaward amendment that results in an obligation of \$25,000 or more in Federal funds; and (2) contractor reporting of each first-tier subcontract award of \$25,000 or more in Federal funds. The two requirements vary somewhat as shown in the example in the following table, i.e., the triggering event for reporting under a grant or cooperative agreement is the obligation of funds under a subaward or subaward amendment rather than a payment made pursuant to the subaward; the triggering event for reporting under a contract is awarding or modifying a first-tier subcontract. Under either set of requirements, the reporting must be accomplished by the end of the month following the month in which the reportable action occurred (as shown in the table).

<b>If the value of a first-tier subaward under a grant or cooperative agreement is</b>	<b>and</b>	<b>then</b>	<b>by</b>
\$65,000 in Federal funds	the entire \$65,000 is obligated on June 1, 2012,	the \$65,000 subaward obligation must be reported	July 31, 2012.
\$65,000 in Federal funds	\$23,000 is obligated at the time of the subaward, and two separate amendments subsequently obligate \$30,000 on October 1, 2012 and \$12,000 on December 30, 2012, respectively,	only the \$30,000 amendment obligation is required to be reported (Note: This example may occur infrequently but should not be used by a recipient to avoid reporting.)	November 30, 2012.
\$24,000 in Federal funds	after the initial obligation of \$24,000, the subaward is subsequently amended to obligate an additional \$25,000 on September 15, 2012,	the initial \$24,000 subaward obligation is not required to be reported; however, the \$25,000 amendment obligation must be reported	October 31, 2012.
\$24,000 in Federal funds	the entire \$24,000 is obligated at the time of the subaward,	no subaward reporting is required.	----
<b><i>subcontract under a contract is</i></b>			
\$65,000 in Federal funds	the entire subcontract amount is obligated in full on July 31, 2012 or only a part of the \$65,000 is obligated on July 31, 2012,	the total \$65,000 value of the subcontract must be reported	August 31, 2012.
increased from \$65,000 in Federal funds to \$75,000 in Federal funds	the subcontract is modified on November 24, 2012,	the changed value, i.e., \$75,000, must be reported	December 31, 2012.

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### Effective Date of Reporting Requirements

#### Grants and Cooperative Agreements

For grants and cooperative agreements, the effective date is October 1, 2010 for all discretionary and mandatory awards equal to or exceeding \$25,000 made with a new Federal Assistance Identification Number (FAIN) on or after that date. The FAIN is the unique award number assigned to a particular grant or cooperative agreement by the Federal awarding agency (as opposed to the CFDA number, which pertains to a program generally). As it appears on the prime award document (e.g., pre-printed form, letter, or electronically generated format), this number also may be termed “award number,” grant number,” or be indicated by some other terminology, but its purpose is to identify that particular award. The FAIN may include both letters and numbers. The Federal government does not specify any requirements for numbering of subawards.

In some programs, Federal agencies assign a new award number each year and that new award number is considered a new FAIN. Therefore, if the FAIN for an award made in November 2009 was AB-12345 and for an award under the same program made in November 2010 was AB-56789, the latter would be considered a new FAIN. In some programs, where awards are made for a multi-year project, but may be funded in increments, even though a suffix may be added, e.g., -02 or -03 designating the subsequent years of an approved project, this is not considered a new FAIN. For example, if the FAIN for an award made in November 2009 was AB-12345-01 and the award made in November 2010 was AB-12345-02, the latter would **not** be considered a new FAIN.

Because of the multiple business processes of different Federal programs, while Part 4 of this Supplement indicates whether Transparency Act reporting applies to a program (see III.L.5 in each program supplement), that information must be used in conjunction with an understanding of the effective date for a particular award.

Recipients are not required to report on subawards made on or after October 1, 2010 that use funds awarded prior to that date.

#### Contracts

For contracts, implementation was phased in for contracts based on their total dollar value. Based on the FAR interim final rule, Transparency Act reporting is required for:

- Until September 30, 2010, any newly awarded subcontract of \$25,000 or more must be reported if the value of the Federal prime contract award under which that subcontract was awarded was \$20,000,000 or more.
- From October 1, 2010 until February 28, 2011, any newly awarded subcontract of \$25,000 or more must be reported if the value of the Federal prime contract award under which that subcontract was awarded was \$550,000 or more.
- Starting March 1, 2011, any newly awarded subcontract of \$25,000 or more must be reported if the value of the Federal prime contract award under which that subcontract was awarded was \$25,000 or more.

#### *Reporting Site*

Grant and cooperative agreement recipients and contractors are required to register in FSRS and report subaward data through FSRS. To do so, they will first be required to register in Central Contractor Registration (CCR) (if they have not done so previously for another purpose, e.g.,

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submission of applications through Grants.gov) and actively maintain that registration. Prime contractors have previously been required to register in CCR. Information input to FSRS is available at USASpending.gov as the publicly available website for viewing this information (<http://www.usaspending.gov/subaward-advanced-search>).

*Key data elements*

Compliance testing of the Transparency Act reporting requirements shall include the following key data elements about the first-tier subrecipient or subcontractor (subawardee) and subawards.

<b>Subaward data element</b>	<b>Definition from <i>Open Government Directive – Federal Spending Transparency and Subaward and Compensation Data Reporting (August 27, 2010) Appendix C</i></b>
Subaward Date	Represents the time period (by month and year) for subawards made against that Federal Award Identification Number (FAIN)
Subawardee DUNS #	The subawardee organization's 9 digit Data Universal Numbering System (DUNS) number
Amount of Subaward	The net dollar amount of Federal funds awarded to the subawardee including modifications.
Subaward Obligation/Action Date	Date the subaward agreement was signed
Date of Report Submission	Date the recipient or contractor entered the action/obligation into FSRS
Subaward Number	Subaward number or other identifying number assigned by the prime awardee organization to facilitate the tracking of its subawards