



## DoD INSTRUCTION 3210.08

# REPORTING AND USING INFORMATION IN THE GOVERNMENT-WIDE INTEGRITY AND PERFORMANCE SYSTEM

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<b>Originating Component:</b>	Office of the Under Secretary of Defense for Research and Engineering
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<b>Releasability:</b>	Cleared for public release. Available on the Directives Division Website at <a href="http://www.esd.whs.mil/DD/">http://www.esd.whs.mil/DD/</a>
<b>Approved by:</b>	Stephen Welby, Assistant Secretary of Defense for Research and Engineering
<b>Change 2 Approved by:</b>	Michael P. Duffey, Chief of Staff

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**Purpose:** In accordance with the authority in DoD Directive 5134.3 and DoD Directive 3210.06, this issuance:

- Implements Office of Management and Budget (OMB) guidance in Parts 180 and 200 of Title 2, Code of Federal Regulations (CFR) for reporting and using information in the government-wide integrity and performance system developed to comply with the requirements of Section 2313 of Title 41, United States Code (U.S.C.). The designated integrity and performance system currently is the Federal Awardee Performance Integrity and Information System (FAPIIS), which has been operational for procurement contracts under the Federal Acquisition Regulation for several years.
- Assigns responsibilities and prescribes procedures that DoD Components must follow for reporting and using information in the government-wide integrity and performance system related to grants, cooperative agreements, and technology investment agreements (TIAs).

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## **SECTION 1: GENERAL ISSUANCE INFORMATION**

### **1.1. APPLICABILITY.** This issuance applies to:

a. OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. Grants, cooperative agreements, and TIAs awarded to all types of recipients. See Section 3 of this issuance for specific applicability of the various procedures in this issuance.

**1.2. SUMMARY OF CHANGE 2.** This change reassigns the office of primary responsibility for this instruction to the Under Secretary of Defense for Research and Engineering in accordance with the July 13, 2018 Deputy Secretary of Defense Memorandum.

## **SECTION 2: RESPONSIBILITIES**

**2.1. ASSISTANT SECRETARY OF DEFENSE FOR RESEARCH AND ENGINEERING (ASD(R&E)).** Under the authority, direction, and control of the Under Secretary of Defense for Acquisition, Technology, and Logistics, the ASD(R&E) develops and implements policies and procedures related to grants, cooperative agreements, and TIAs.

**2.2. DOD COMPONENT HEADS.** DoD Component heads:

- a. Develop and distribute any guidance necessary to awarding and administering offices within their Components to ensure compliance with the procedures in Section 3 of this issuance.
- b. Must report and use integrity and performance information in FAPIIS, or any successor system designated by OMB, concerning grants, cooperative agreements, and TIAs as specified in Section 3 of this issuance.

## SECTION 3: PROCEDURES

**3.1. GENERAL.** This section provides procedures for DoD Components to follow related to reporting and using information in the government-wide integrity and performance system for grants, cooperative agreements, and TIAs.

### 3.2. FAPIIS LANGUAGE IN NOTICES OF FUNDING OPPORTUNITY.

a. When preparing notices of funding opportunities, DoD Components must include in the full text of the notices (e.g., program announcements and broad agency announcements) the applicable language in Table 1 concerning FAPIIS that conforms with OMB guidance in Part 200 of Title 2, CFR. This applies to notices issued on or after the effective date of this issuance.

**Table 1. Language for Notices of Funding Opportunities**

<b>When preparing...</b>	<b>The full text of the notices must...</b>
Notices that may result in an award whose federal share of the total value exceeds the simplified acquisition threshold	Include language related to the pre-award use of FAPIIS that conforms to OMB guidance in Paragraph E.3 of the government-wide standard announcement format in Appendix I to Part 200, Title 2, CFR.
Notices that may result in an award whose federal share of the total value exceeds \$500,000	Include language related to both the pre-award use of FAPIIS and post-award FAPIIS reporting requirements that conforms to OMB guidance in Paragraphs E.3 and F.3 of the government-wide standard announcement format in Appendix I to Part 200 of Title 2, CFR.

b. For a notice of funding opportunity issued before the effective date of this instruction, DoD Components are not required to amend the notice of funding opportunity to include the language specified in Table 1 unless the notice allows for the receipt of proposals on or after the effective date of this issuance.

### 3.3. DETERMINATION OF RECIPIENT QUALIFICATIONS.

a. Before making an award, the DoD grants or agreements officer must review any information about the potential recipient that is available in FAPIIS and consider that information in determining, as described in the DoD Grant and Agreement Regulations (DoDGARs) at Subpart D of Part 22 of Title 32, CFR, whether the entity is qualified to receive the award. This requirement to review FAPIIS applies to awards that have:

(1) An award date on or after the effective date of this issuance, regardless of when an application is received or reviewed.

(2) A federal share of the award's total value that is expected to exceed the simplified acquisition threshold.

b. This requirement is in addition to, and not in place of, the requirement in the DoDGARs at Part 1125 of Title 2, CFR to check for information about a potential recipient in System for Award Management (SAM) Exclusions. See Section 5 of this issuance for additional information on SAM Exclusions and FAPIIS.

c. If an award that is subject to the review requirements of Paragraph 3.3.a. will not be made based on either an entity's previous record of performance or its record of integrity and business ethics, the DoD grants or agreements officer must report that determination to FAPIIS and notify the entity in accordance with paragraph (c) of Section 200.212 of Title 2, CFR.

**3.4. FAPIIS AWARD TERM AND CONDITION.** For new awards that will have an award date on or after the effective date of this issuance and a federal share of the award's total value that exceeds \$500,000, the DoD grants or agreements officer must include in the award an award term and condition that is substantively the same as that specified in Appendix XII to Part 200 of Title 2, CFR. This requirement also applies to modifications of awards that:

- a. Increase the scope of the award.
- b. Are issued on or after the effective date of this issuance.
- c. Increase the federal share of the award's total value to an amount that exceeds \$500,000.

### **3.5. NOTIFICATION AND REPORTING FOR AWARD TERMINATIONS.**

a. The notification and reporting requirements in Paragraphs 3.5.b. and 3.5.c. apply to terminations of awards that:

(1) Result from an entity's material failure to comply with federal statutes, regulations, or other terms and conditions of the award.

(2) Are effective on or after the effective date of this issuance, regardless of when the award was originally made or funded. There is no dollar threshold that triggers this requirement; the requirements apply regardless of the award's total value or funding remaining.

b. For terminations described in Paragraph 3.5.a., the DoD grants and agreements officers must provide to the entity whose award was terminated a written notification of termination in accordance with Paragraph (b) of Part 200.340 of Title 2, CFR, that includes notice that the termination decision may be considered in evaluating future applications from the non-federal entity.

c. DoD grants and agreements officers must report any terminations described in Paragraph 3.5.a. to FAPIIS when:

(1) The notice described in Paragraph 3.5.b. has been provided.

(2) The entity whose award is terminated has exhausted its opportunities to object or challenge the decision in accordance with the DoDGARs in Paragraph (e)(3) of Section 22.815 of Title 32, CFR.

### **3.6. CORRECTIONS OR CHANGES TO FAPIIS.**

a. DoD awarding and administering offices are not required to respond to comments that an entity makes in FAPIIS about the DoD actions described in Paragraphs 3.3.c. and 3.5.c. concerning that entity. However, DoD awarding and administering offices must, within 3 business days of becoming aware of it, correct any inaccurate information they have entered into FAPIIS concerning the qualification of an entity or the termination of an award.

b. If a DoD awarding or administering office obtains an update to any information already in FAPIIS that could be helpful to other federal awarding agencies, the office is strongly encouraged to amend the information in FAPIIS as soon as possible.

### **3.7. PUBLIC ACCESS TO INFORMATION.**

a. The information described in Paragraphs 3.3.c, 3.5.c, and 3.6. that is posted by the DoD Component in the non-public segment of FAPIIS is made publicly available after a waiting period of 14 calendar days in accordance with Section 200.211 of Title 2, CFR. Any posting of that information in the non-public segment of FAPIIS must conform to the requirements of the Part 552 of Title 5, U.S.C., also known and referred to in this issuance as “the Freedom of Information Act (FOIA).”

b. If the DoD Component is notified by an entity within 7 calendar days of posting in FAPIIS that information described in Paragraphs 3.3.c, 3.5.c, and 3.6. about that entity is covered by an exemption to disclosure under FOIA, the DoD awarding or administering office must:

(1) Remove the posting within 7 calendar days of receipt of the notification.

(2) Consult with its FOIA officer and revise the information, if appropriate, to ensure it is releasable under FOIA before reposting in FAPIIS.

c. Nothing in this issuance may be construed as requiring the publication of controlled unclassified information pursuant to Executive Order 13556 or classified information pursuant to Executive Order 13526.

## **SECTION 4: ACCESSING FAPIIS**

### **4.1. WEBSITES TO ACCESS FAPIIS.**

- a. For the review required in Paragraph 3.3.a., grants and agreements officers can access FAPIIS through [www.ppirs.gov/fapiis.htm](http://www.ppirs.gov/fapiis.htm).
- b. For the reporting requirements specified in Paragraphs 3.3.c, 3.5.c, and 3.6, grants and agreements officers can access FAPIIS through [www.cpars.gov/fapiismain.htm](http://www.cpars.gov/fapiismain.htm).

**4.2. MIGRATION OF FAPIIS FUNCTIONALITY TO SAM.** The General Services Administration plans to move the functionality for FAPIIS to SAM. Once the migration occurs, grants and agreements officers will access SAM at [www.sam.gov](http://www.sam.gov) to perform the review and reporting requirements specified in Paragraphs 3.3.a, 3.3.c, 3.5.c, and 3.6.



## **SECTION 5: SAM EXCLUSIONS AND FAPIIS INFORMATION**

**5.1. OVERLAP OF SUSPENSION AND DEBARMENT INFORMATION.** Even though SAM Exclusions are set forth in the list specified in Part 180 of Title 2, CFR and contain information about entities that are debarred, suspended, or otherwise ineligible, FAPIIS is required by law to include, among other things, information about all suspensions and debarments that began during the most recent 5-year period. This may include suspensions or debarments that subsequently expired or were terminated. Although information in SAM Exclusions may be redundant with that in FAPIIS, a search of information in each system is mandatory.

### **5.2. EFFECT OF INFORMATION IN SAM EXCLUSIONS AND FAPIIS.**

a. A listing in SAM Exclusions prohibits making an award to the entity in most cases (see Part 1125 of Title 2, CFR for DoD's implementation of OMB guidance at Part 180 of Title 2, CFR). In accordance with that OMB guidance, a suspension or debarment of an entity, or a proposal to debar the entity in accordance with the Federal Acquisition Regulation, restricts the entity's eligibility to receive federal awards only until the date on which the suspension is lifted, the proposed debarment is terminated, or the period of debarment expires.

b. Apart from any information that an entity is currently debarred, suspended, or otherwise ineligible to receive an award, finding other adverse information in FAPIIS (including information about an expired or terminated suspension or debarment action) does not necessarily prohibit a DoD Component from making an award. This other adverse information serves to inform the pre-award determination of the entity's qualification to receive an award.

## GLOSSARY

### G.1. ACRONYMS.

ASD(R&E)	Assistant Secretary of Defense for Research and Engineering
CFR	Code of Federal Regulations
DoDGARs	DoD Grant and Agreement Regulations
FAPIIS	Federal Awardee Performance Integrity and Information System
FOIA	Freedom of Information Act
OMB	Office of Management and Budget
SAM	System for Award Management
TIA	technology investment agreement
U.S.C.	United States Code

**G.2. DEFINITIONS.** Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

**agreements officer.** Defined in the DoDGARs at Section 21.610 of Chapter I, Subchapter C, Subpart F of Title 32, CFR.

**cooperative agreement.** Defined in the DoDGARs at Section 21.640 of Chapter I, Subchapter C, Subpart F of Title 32, CFR.

**DoDGARs.** The regulations in Chapter I, Subchapter C of Title 32, CFR, and Chapter XI of Title 2, CFR.

**federal share.** The portion of the project costs under an award that is paid by federal funds.

**grant.** Defined in the DoDGARs at Section 21.655 of Chapter I, Subchapter C, Subpart F of Title 32, CFR.

**grants officer.** Defined in the DoDGARs at Section 21.660 of Chapter I, Subchapter C, Subpart F of Title 32, CFR.

**nonprocurement transaction.** Defined in Section 180.970 of Chapter I, Subpart I, Title 2, CFR.

**SAM Exclusions.** Defined in Section 180.945 of Part 180 of Chapter I, Subpart I, Title 2, CFR.

**simplified acquisition threshold.** The dollar amount set by the Federal Acquisition Regulation at Subpart 2.1 of Title 48, CFR, which is adjusted periodically for inflation in accordance with Section 1908 of Title 41, U.S.C.

**TIA.** One of a special class of assistance instruments used to increase involvement of commercial firms in defense research programs and for other purposes related to integration of the commercial and defense sectors of the Nation's technology and industrial base. Technology investment agreements include one kind of cooperative agreement with provisions tailored for involving commercial firms, as well as one kind of assistance transaction other than a grant or cooperative agreement. Technology investment agreements are subject to, and described more fully in, Part 37 of Title 32, CFR.

**termination.** The ending of an award, in whole or in part, at any time before the planned end of the period of performance.

**total value.** The total amount of costs that are currently expected to be charged to the DoD grant, cooperative agreement, or TIA over its life, which includes amounts for both:

The federal share and any non-federal cost sharing or matching required under the award.

Any options, even if not yet exercised, for which the costs have been established in the award.

## **REFERENCES**

Code of Federal Regulations, Title 2  
Code of Federal Regulations, Title 32  
Code of Federal Regulations, Title 48  
Deputy Secretary of Defense Memorandum, “Establishment of the Office of the Under Secretary of Defense for Research and Engineering and the Office of the Under Secretary of Defense for Acquisition and Sustainment,” July 13, 2018  
DoD Directive 3210.06, “Defense Grant and Agreement Regulatory System (DGARS),” February 6, 2014  
DoD Directive 5134.3, “Director of Defense Research and Engineering (DDR&E),” November 3, 2003  
Executive Order 13526, “Classified National Security Information”, December 29, 2009  
Executive Order 13556, “Controlled Unclassified Information,” November 4, 2010  
Federal Acquisition Regulation, current edition  
Federal Register, Volume 80, Pages 43301-43311, July 22, 2015  
United States Code, Title 41  
United States Code, Title 5, Part 552