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OFFICE OF MANAGEMENT AND BUDGET

2 CFR Parts 170, 184, and 200

Guidance for Federal Financial Assistance; Corrections

AGENCY: Office of Federal Financial Management, Office of Management and Budget.

ACTION: Final rule; correction and correcting amendments.

SUMMARY: The Office of Management and Budget (OMB) is correcting the final guidance that appeared in the **Federal Register** on April 22, 2024. This document reverses a change to a title heading and makes technical amendments clarifying specific language in three parts.

DATES: Effective on October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Steven Mackey or Andrew Reisig at the OMB Office of Federal Financial Management at MBX.OMB.Grants@OMB.eop.gov or 202–395–3993.

SUPPLEMENTARY INFORMATION: This is a summary of the revisions to OMB's Guidance for Federal financial assistance published April 22, 2024 (89 FR 30046).

Section-by-Section Discussion

Title 2—Grants and Agreements

In the document published by OMB in the **Federal Register** in April, instruction 1 at 89 FR 30107 attempted to change the heading of title 2 from “Grants and Agreements” to “Federal Financial Assistance.” However, unlike chapters, subchapters, and parts, which are under the direct control of an agency (1 CFR 21.8), each CFR title is arranged by subject matter and only the Director of the Federal Register can establish new or update existing titles (1 CFR 8.2). Therefore, instead of directly changing the heading and subject matter of title 2, the Director of OMB has communicated the request to change the

heading of title 2 to the Director of the Federal Register.

Subtitle A of title 2 has been specifically assigned to OMB, so, in this case, the subtitle heading is treated as an OMB chapter or part heading. Therefore, instructions 2 and 4 in OMB's April document are both acceptable instructions, which will be implemented.

Appendix A to Part 170—Award Term

In paragraph I(a)(2)(i) of appendix A to 2 CFR part 170, OMB mistakenly stated that the “entity or Federal agency” must report subawards described in paragraph (a)(1) of the award term to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). OMB intended to state that the “recipient” is responsible for such reporting to FSRS. The technical correction is consistent with the prior version of the award term in appendix A to 2 CFR part 170, which is directed at recipients—but refers to them throughout as “you.” In the revised version of the award term, OMB generally replaced the word “you” with “recipient” throughout for greater clarity, but inadvertently included the wrong terms in this particular instance. Consistent with 2 CFR 170.220(a), the award term is directed at recipients, and recipients are responsible for reporting subawards in FSRS. Thus, through this document, OMB replaced “entity or Federal agency” with “recipient” in paragraph (a)(1) of the award term.

Section 184.3—Definitions (Introductory Text)

In the introductory text for the definitions in part 184, which implements the Build America, Buy America Act (BABA), Public Law 117–58, OMB incorporated the meanings of acronyms and definitions from 2 CFR 200.0 and 200.1. 88 FR 57750, 57788. OMB did this to incorporate the meanings of terms such as “Federal award,” “subaward,” “Federal agencies,” “recipient,” and others, which are used in the same way in both parts 184 and 200. However, the document published by OMB in the **Federal Register** in April 2024 revising part 200 adjusted the meanings and thresholds for the terms “equipment” and “supply,” which OMB does not intend to apply under part 184. 89 FR 30046, 30139–44. OMB has amended

the introductory text before the definitions in § 184.3 to clarify that the definitions of “equipment” and “supply” are not incorporated under part 184.

Based on the use of “expenditures” at § 184.8 (Exemptions to the Buy America Preference), OMB has also amended the introductory text to exclude the definition of “expenditures” from part 200. The use of that term in § 184.8 (*i.e.*, “expenditures for assistance”) refers to expenditures of funds by a Federal agency “for assistance,” as opposed to the definition in § 200.1, which refers to expenditures “by a recipient or subrecipient to a project or program for which a Federal award is received.” 89 FR 30046, 30139.

OMB is not providing revised definitions of the terms “equipment,” “supply,” or “expenditure” through this document, but merely clarifying that the definitions from § 200.1 do not apply under part 184.

Section 200.1—Definitions

In the document published by OMB in the **Federal Register** in August 2023 establishing 2 CFR part 184, which implements BABA, Public Law 117–58, OMB explained how the term Federal financial assistance, as defined at 2 CFR 200.1, should be applied under part 184. 88 FR 57750, 57774. The preamble explained that, through issuance of the final guidance, OMB did not modify the existing guidance in M–22–11 on the proper application of that term for the purposes of BABA. Specifically, OMB explained that the existing guidance in OMB Memorandum M–22–11 was based on the definition of Federal financial assistance at section 70912(4)(A) of BABA, providing that the term has the meaning given in “section 200.1 of title 2, Code of Federal Regulations (or successor regulations).” Based on certain forms of assistance listed in section 200.1, Memorandum M–22–11 established the policy that, for the purposes of BABA, Federal financial assistance means “assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, *loans, loan guarantees*, and other types of financial assistance.” (Emphasis added) Section 70912(4)(B) of BABA also provides that the term Federal financial assistance includes, but is not

limited to, all expenditures “by a Federal agency to a non-Federal entity [for assistance] for an infrastructure project,” except that it does not include certain specified expenditures relating to a major disaster or emergency. Based on the policy in Memorandum M–22–11, which applied BABA to loans and loan guarantees, the part 184 preamble explained how the definition from BABA 70912(4)(A) and 2 CFR 200.1 should be applied for the purposes of part 184. 88 FR 57750, 57774.

OMB subsequently rescinded and replaced Memorandum M–22–11 on October 25, 2023, by issuing Memorandum M–24–02. Memorandum M–24–02 continues to provide that, for the purposes of BABA, Federal financial assistance means “assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance.”

To clarify how the term “Federal financial assistance” is applied for purposes of BABA under part 184, OMB has added a new paragraph to the definition at § 200.1 specifically addressing this topic based on the part 184 preamble and associated OMB guidance memoranda. This revision is intended to reduce any ambiguity in the 2 CFR text on which forms of Federal financial assistance are included for purposes of part 184. The revision is consistent with OMB’s existing policy with respect to BABA applicability to loans and loan guarantees, which is reflected in the part 184 preamble and associated policy memoranda.

Section 200.431—Compensation—Fringe Benefits

In the document published by OMB in the **Federal Register** in April, OMB explained in the preamble at 89 FR 30095 that, in the proposed guidance, “OMB proposed revising section 200.431 on fringe benefits to require recipients and subrecipients to allocate payments for unused leave as general administrative expenses or include them in a fringe benefit rate with cognizant agency approval.” In its response to comments at 89 FR 30095, OMB stated that it revised paragraph (b)(3)(i) of § 200.431 “to remove the requirement that agencies must include certain costs in fringe benefit rates *only with* the approval of the cognizant agency for indirect costs.” (Emphasis added) OMB explained that it made this change in recognition “that some recipients might not have a cognizant agency for indirect costs.” However, in removing the requirement to obtain

cognizant agency approval, OMB also inadvertently removed the option to include these payments in a fringe benefit rate under any circumstances, which—as the preamble text reflected—was not its intent. Thus, through this document, OMB inserted the following text at the end of paragraph (b)(3)(i) of § 200.431: “or included in the fringe benefit rate.”

In addition, OMB further revised paragraph (b)(3)(i) of § 200.431 through this document to replace the word “must” with “should” in the instruction to either allocate these payments for unused leave as a general administrative expense to all activities or include them in fringe benefit rates. This revision is consistent with prior OMB guidance on this topic in the “2 CFR Frequently Asked Questions” (2 CFR FAQ) published on May 3, 2021, which was a source of the text at paragraph (b)(3)(i) of § 200.431. See 2 CFR FAQ, at Q–104. All payments for unused leave must still be allocated in accordance with the cost principles in subpart E. See, e.g., 2 CFR 200.401(a). Paragraph (b)(3)(i), as revised, continues to describe the two options that will generally be used for these types of payments under subpart E.

Correction to Final Rule Published April 2024

In FR Doc. 2024–07496, appearing at 89 FR 30046 in the **Federal Register** of April 22, 2024, on page 30108, in the first column, remove instruction 1 for title 2.

List of Subjects

2 CFR Part 170

Colleges and universities, Grant programs, Hospitals, International organizations, Loan programs, Reporting and recordkeeping requirements.

2 CFR Parts 184 and 200

Administration of Federal financial assistance, Administrative practice and procedure, Federal financial assistance programs.

For the reasons stated in the preamble, the Office of Management and Budget corrects 2 CFR chapters I and II by making the following correcting amendments:

PART 170—REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION

■ 1. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6102; 31 U.S.C. 6307; Pub. L. 109–282; Pub. L. 110–252, Pub. L. 113–101, Pub. L. 117–40.

Appendix A to part 170 [Amended]

■ 2. In appendix A to part 170, amend paragraph I(a)(2)(i) by removing the words “entity or Federal agency” and adding, in their place, the word “recipient”.

PART 184—BUY AMERICA PREFERENCES FOR INFRASTRUCTURE PROJECTS

■ 3. The authority citation for part 184 continues to read as follows:

Authority: Pub. L. 117–58, 135 Stat. 429.

■ 4. In § 184.3, revise the introductory text to read as follows:

§ 184.3 Definitions.

Acronyms used in this part have the same meaning as provided in 2 CFR 200.0. Terms not defined in this part have the same meaning as provided in 2 CFR 200.1, except for the terms “equipment,” “expenditures,” and “supplies,” which are not specifically defined for this part. As used in this part:

* * * * *

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 5. The authority citation for part 200 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6101–6106; 31 U.S.C. 6307; 31 U.S.C. 7501–7507.

■ 6. In § 200.1, in the definition of “Federal financial assistance,” add paragraph (5) to read as follows:

§ 200.1 Definitions.

* * * * *

Federal financial assistance * * * (5) For part 184 of this title, in addition to the forms of assistance listed in paragraph (1) of this definition, *Federal financial assistance* also includes assistance that recipients or subrecipients receive or administer in the form of:

- (i) Loans; and
- (ii) Loan Guarantees.

* * * * *

■ 7. In § 200.431, revise paragraph (b)(3)(i) to read as follows:

§ 200.431 Compensation—fringe benefits.

* * * * *

- (b) * * *
- (3) * * *

(i) When a recipient or subrecipient uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an

employee retires or terminates employment are allowable in the year of payment and should be allocated as a general administrative expense to all activities or included in the fringe benefit rate.

* * * * *

Deidre A. Harrison,

Deputy Controller, performing the delegated duties of the Controller Office of Federal Financial Management.

[FR Doc. 2024–22520 Filed 9–26–24; 4:15 pm]

BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. APHIS–2024–0034]

Web Links for Plant Commodity Import Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the phytosanitary treatment and quarantine import regulations to reflect our relocation of import and treatment requirements for agricultural commodities to the Agricultural Commodity Import Requirements online database. This change will ensure that the regulations provide the latest web links for accessing current import and treatment requirements for all agricultural commodities.

DATES: Effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Jenna Edwards, Assistant Director, Information Services and Manuals Unit, PPQ–PEIP–IRM, APHIS, 4700 River Road, Riverdale, MD 20737–1231; (970) 305–2501; jennifer.m.edwards@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 305, “Phytosanitary Treatments,” set out phytosanitary treatment requirements for certain plants, fruits, vegetables, and other articles before they may be imported or moved interstate to prevent the spread of agricultural pests into or within the United States. In 7 CFR part 319, subpart H, §§ 319.37–1 through 319.37–23, sets out requirements for importation of live plants intended to be planted or replanted. Subpart L, §§ 319.56–1 through 319.56–12, provides requirements for importation

of fruits and vegetables into the United States.

The Animal and Plant Health Inspection Service (APHIS) maintains a publicly searchable database, “Agricultural Commodity Import Requirements,” or ACIR,¹ that allows users to find import and treatment requirements for all agricultural commodities. APHIS intends ACIR eventually to be the official location for import and treatment requirements for all agricultural commodities.

Prior to development of the ACIR database, APHIS’ Plant Protection and Quarantine (PPQ) import and treatment requirements were maintained across several manuals and the Fruits and Vegetables Import Requirements (FAVIR) database. In September 2022, FAVIR was retired and all information about specific fruit and vegetable import requirements were relocated to ACIR. PPQ import requirements for cut flowers and greenery, seeds not for planting, miscellaneous and processed products, and later in 2022, plants for planting, were also relocated from their respective manuals to ACIR. In early 2023, treatment schedules and other information from the *PPQ Treatment Manual* were relocated to ACIR.

Parts 305 and 319 of the current regulations contain web links to FAVIR, PPQ’s *Plants for Planting Manual*, and the *PPQ Treatment Manual*. These links either redirect persons to the ACIR database or to manuals that are no longer to be updated, as the information in these sources has been moved to ACIR. In order to provide updated web links to direct readers to the ACIR database, it is necessary to amend the regulations through rulemaking.

In § 305.1, the definition of *PPQ Treatment Manual* contains a link that currently directs readers to the manual. We are removing that web link and replacing it with one that links directly to the treatments section within ACIR. We are also amending the definition by removing the current mailing address for requesting a hard copy of the *PPQ Treatment Manual* and adding an updated mailing address.² In accordance with our legal obligations, we maintain this service for persons who may not have access to the internet.

We are also amending § 319.5(c) by removing “Commodity Import Analysis and Operations” from the address to which information about export commodities is to be sent. This amendment reflects an internal administrative change.

¹ <https://acir.aphis.usda.gov/s/>.

² Information Services and Manuals Unit, 4700 River Road, Riverdale, MD 20737.

In § 319.37–2, we are revising the definition of *Plants for Planting Manual* by replacing the web link currently in the definition with one that links directly to the plants for planting section of the ACIR database. We are also updating the mailing address in the definition for persons requesting a hard copy of the manual.

As noted above, the import requirements for fruits and vegetables have been moved from FAVIR to ACIR. Accordingly, we are updating § 319.56–4(c)(1) by replacing the current web link with a link directly to the ACIR database.

Effective Date

This rule updates APHIS’ regulations in order to ensure that references to manuals, web addresses, postal addresses, and nomenclature are accurate. Therefore, APHIS considers there to be good cause pursuant to 5 U.S.C. 553 to find that an opportunity for public comment is unnecessary and contrary to the public interest, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule ensures that regulations will refer to the correct web addresses and postal addresses used by the Agency, APHIS considers the rule to relate to internal agency management within the U.S. Department of Agriculture, and it is, accordingly, exempt from the provisions of Executive Orders 12866 and 12988. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 501), and as such is exempt from the provisions of that Act.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects

7 CFR Part 305

Agricultural commodities, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 319

Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Plants, Quarantine, Reporting