



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

2 CFR Part 1201

49 CFR Parts 18 and 19

[Docket No. OMB–2014–0006]

RIN 2105-AE33

Department of Transportation Regulatory Implementation of Office of Management and Budget’s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On December 19, 2014, the U.S. Department of Transportation, with other Federal agencies, published a joint interim final rule implementing the guidance titled “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” that the Office of Management and Budget (OMB) published on December 26, 2013. While the Department received two comments on related implementation guidance, to which we respond, the Department did not receive any comments on the final rule implementing the OMB guidance. Therefore, this rule confirms that the changes that the Department published in the interim final rule on December 19, 2014, are final.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Michael A. Smith, Office of the General Counsel (C-10), U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366-2917, michael.a.smith@dot.gov.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) published guidance titled “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” in 2 CFR part 200 on December 26, 2013 (78 FR 78589), to improve the efficiency and effectiveness of Federal financial assistance. That guidance followed an advance notice of proposed guidance (77 FR 11778) and a notice of proposed guidance (78 FR 7282). The guidance required that Federal agencies promulgate a regulation implementing its policies and procedures. On December 19, 2014, the Department and other agencies published a joint interim final rule to implement the guidance (79 FR 75871).

In the joint interim final rule, the Department implemented the guidance through regulations at 2 CFR part 1201 and removed its previous regulations on Federal awards at 49 CFR parts 18 and 19. The OMB and the Department received comments in response to the joint interim final rule, but none of those comments were about the final rule itself, 2 CFR part 1201, or 49 CFR part 18 or 19. Thus, the Department confirms that the changes to 2 CFR part 1201 and 49 CFR parts 18 and 19 that it published in the joint interim final rule are final.

Although the Department did not receive any comments regarding the substance of the joint interim final rule, there were two comments submitted related to implementation guidance that the Federal Highway Administration (FHWA) issued on December 4, 2014. First, we received a comment from the Maryland State Highway

Administration (SHA) seeking clarification of how FHWA expected State departments of transportation, as “pass-through entities,” to monitor and negotiate subrecipients’ indirect costs. Section D.1.b of Appendix VII to part 200 states that “[w]here a non-Federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient’s indirect costs.” The FHWA’s implementation guidance supports this requirement and does not add any additional oversight responsibilities for the SHA in negotiating or monitoring the subrecipient’s indirect costs.

Second, we received a comment from the Missouri Department of Transportation (MoDOT). The FHWA implementation guidance had stated that 2 CFR 200.309 was “a significant change to the Federal-aid highway program because it will impose a period when project costs can be incurred, which includes a project agreement start and end date. . . . The new provision will require an end date to be included in the agreement after which no additional costs may be incurred and are not eligible for reimbursement.” The MoDOT commented that the “requirement to monitor and track project end dates duplicates the efforts being performed to monitor and track inactive projects.” The FHWA does not view the requirement in 2 CFR 200.210(a)(5) and 200.309 that Federal awards have end dates as duplicative of other requirements on MoDOT. Instead, the requirement is an additional internal control that complements existing stewardship and oversight responsibilities held by State departments of transportation. The FHWA anticipates issuing additional guidance about using project agreement end dates to improve funds management.

Regulatory analyses and notices for this final rule were published with the joint interim final rule.

For the reasons stated in the preamble, the Department of Transportation adopts without change the addition of 2 CFR part 1201 and the removal and reservation of 49 CFR parts 18 and 19 that were published in the joint interim final rule at 79 FR 75871 on December 19, 2014.

Issued in Washington, DC on November 30, 2015.

Anthony R. Foxx,

Secretary of Transportation.

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