

§ 200.112 Conflict of interest.

The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

COFAR Frequently Asked Questions

Section 200.112 states “The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.” Does this policy refer to scientific conflicts of interest that might arise in the research community? No, however Federal agencies may have special policies or regulations specific to scientific conflicts of interest, such as HHS’s policy at 42 CFR Part 50. The conflict of interest policy in 2 CFR 200.112 refers to conflicts that might arise around how a non-Federal entity expends funds under a Federal award. These types of decisions include, for example, selection of a subrecipient or procurements as described in section 200.318.

The wording in this section was not intended to create a new, higher standard for budgeting. Fixed amount (fixed price) awards are appropriate when the work that is to be performed can be priced with a reasonable degree of certainty. Samples of appropriate mechanisms to establish an appropriate price include the non-Federal entity’s past experience with similar types of work for which outcomes and their costs can be reliably predicted, or the non-Federal entity can easily ability to obtain price estimates (e.g., bids, quotes, catalog pricing) for significant cost elements.

Section 200.201(b)(2) states that a fixed amount award (or subaward) cannot be used in programs that require a mandatory cost-share or match. Do salary costs that exceed a Federal awarding agency’s salary cap constitute “mandatory cost-sharing” for the purpose of determining whether a fixed amount award or subaward can be used?

No, salary costs above a Federal awarding agency’s cap are not a mandatory cost-share or match but, instead, are the result of limitations on the amount of salary costs that may be charged to the Federal award, and are paid at the discretion of the non-Federal entity. Since these salary costs above a Federal awarding agency’s cap are not a mandatory cost-share or match, a fixed amount award or subaward can be used.

Section 200.201(b)(3) states: “The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted.” What reporting and documentation requirements should the non-Federal entity provide to the awarding agency?

The Federal awarding agency or pass-through entity may specify the form or format required to certify completion or that the level of effort was expended, in the case of Federal awarding agencies through an OMB-approved information collection. If no format is specified, the recipient should certify completion to the Federal awarding agency (or the subrecipient should certify to the pass-through entity) as a part of the closeout process. Consistent with section 200.308(c)(3), a reduction of more than 25% of the level of effort must be reported to the Federal awarding agency and would require an adjustment. In other cases where an adjustment is necessary, typical mechanisms would include basing the adjustment on the percentage of completed work, actual costs incurred to date, or on another documented basis.