

§ 22.510 Certifications, representations, and assurances.

(a) *Certifications*—(1) *Policy*. Certifications of compliance with national policy requirements are to be obtained from recipients only for those national policies where a statute, Executive order, or codified regulation specifically states that a certification is required. Other national policy requirements may be addressed by obtaining representations or assurances (see paragraph (b) of this section). Grants officers should utilize methods for obtaining certifications, in accordance with Executive Order 12866 (3 CFR, 1993 Comp., p. 638), that minimize administration and paperwork.

(2) *Procedures*. (i) When necessary, grants officers may obtain individual, written certifications.

(ii) Whenever possible, and to the extent consistent with statute and codified regulation, grants officers should identify the certifications that are required for the particular type of recipient and program, and consolidate them into a single certification provision that cites them by reference.

(A) Appendix A to this part lists the common certifications and cites their applicability. Because some certifications (e.g., the certification on lobbying in Appendix A to this part) are required by law to be submitted at the time of proposal, rather than at the time of award, Appendix A to this part includes language that may be used for incorporating common certifications by reference into a proposal.

(B) If a grants officer elects to have proposers incorporate certifications by reference into their proposals, he or she must do so in one of the two following ways. When required by statute or codified regulation, the solicitation must include the full text of the certifications that proposers are to provide by reference. In other cases, the grants officer may include language in the solicitation that informs the proposers where the full text may be found (e.g., in documents or computer network sites that are readily available to the public) and offers to provide it to proposers upon request.

(C) Grants officers may incorporate certifications by reference in award documents when doing so is consistent

with statute and codified regulation. Note that a statute requires submission of the lobbying certification in Appendix A to this part at the time of proposal, and that 32 CFR 25.510(a) requires submission of certifications regarding debarment and suspension at the time of proposal. The provision that a grants officer would use to incorporate certifications in award documents, when consistent with statute and codified regulation, would be similar to the provision in Appendix A to this part, except that it would be modified to state that the recipient is providing the required certifications by signing the award document or by accepting funds under the award.

(b) *Representations and assurances*. Many national policies, either in statute or in regulation, require recipients of grants and cooperative agreements to make representations or provide assurances (rather than certifications) that they are in compliance with the policies. As discussed in § 22.610(b), Appendix B to this part suggests award terms and conditions that may be used to address several of the more commonly applicable national policy requirements. These terms and conditions may be used to obtain required assurances and representations, if the grants officer wishes to do so at the time of award, rather than through the use of the standard application form (SF-424⁵) or other means at the time of proposal.

§ 22.515 Provisions of annual appropriations acts.

An annual appropriations act can include general provisions stating national policy requirements that apply to the use of funds (e.g., obligation

⁵For copies of Standard Forms listed in this part, contact regional grants administration offices of the Office of Naval Research. Addresses for the offices are listed in the "DoD Directory of Contract Administration Services Components," DLAH 4105.4, which can be obtained either from: Defense Logistics Agency, Publications Distribution Division (DASC-WDM), 8725 John J. Kingman Rd., Suite 0119, Fort Belvoir, VA 22060-6220; or from the Defense Contract Management Command home page at <http://www.dcmc.dcrb.dla.mil>.

through a grant or cooperative agreement) appropriated by the act. Because these requirements are of limited duration (the period during which a given year's appropriations are available for obligation), and because they can vary from year to year and from one agency's appropriations act to another agency's, the grants officer must know the agency(ies) and fiscal year(s) of the appropriations being obligated by a given grant or cooperative agreement, and may need to consult legal counsel if he or she does not know the requirements applicable to those appropriations.

§ 22.520 Military recruiting on campus.

(a) *Purpose.* The purpose of this section is to implement section 558 of the National Defense Authorization Act for Fiscal Year 1995 (Pub. L. 103-337), as it specifically affects grants and cooperative agreements (note that section 558 appears as a note to 10 U.S.C. 503). This section thereby supplements DoD's primary implementation of section 558, in 32 CFR part 216, "Military Recruiting and Reserve Officer Training Corps Program Access to Institutions of Higher Education."

(b) *Definitions specific to this section.* In this section:

(1) *Directory information* has the following meaning, given in section 558(c) of Pub. L. 103-337. It means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

(2) *Institution of higher education* has a different meaning in this section than it does in the rest of this part. The meaning of the term in other sections of this part is given at § 22.105. In this section, "institution of higher education" (IHE) has the following meaning, given at 32 CFR 216.3. The term means a domestic college, university, or subelement thereof providing post-secondary school courses of study, including foreign campuses of such domestic institutions. The term includes junior colleges, community colleges, and institutions providing courses leading to undergraduate and postgraduate degrees. The term does not

include entities that operate exclusively outside the United States, its territories, and possessions. A subelement of an IHE is a discrete (although not necessarily autonomous) organizational entity that may establish policy or practices affecting military recruiting and related actions (e.g., an undergraduate school, law school, medical school, or other graduate school).

(c) *Statutory requirement.* No funds available to the Department of Defense may be provided by grant to any institution of higher education that either has a policy of denying or that effectively prevents the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses or access to students on campuses or access to directory information pertaining to students.

(d) *Policy—(1) Applicability to subordinate elements of institutions of higher education.* 32 CFR part 216, DoD's primary implementation of section 558, establishes procedures by which the Department of Defense identifies institutions of higher education that have a policy or practice described in paragraph (c) of this section. In cases where those procedures lead to a determination that specific subordinate elements of an institution of higher education have such a policy or practice, rather than the institution as a whole, 32 CFR part 216 provides that the prohibition on use of DoD funds applies only to those subordinate elements.

(2) *Applicability to cooperative agreements.* As a matter of DoD policy, the restrictions of section 558, as implemented by 32 CFR part 216, apply to cooperative agreements, as well as grants.

(3) *Deviations.* Grants officers may not deviate from any provision of this section without obtaining the prior approval of the Director of Defense Research and Engineering. Requests for deviations shall be submitted, through appropriate channels, to: Director for Research, ODDR&E(R), 3080 Defense Pentagon, Washington, DC 20301-3080.

(e) *Grants officers' responsibilities.* A grants officer shall:

(1) Not award any grant or cooperative agreement to an institution of higher education that has been identified pursuant to the procedures of 32