FEDERAL GRANTS NEWS
for Colleges and Universities

In This Issue

Please Note:

This issue is a combined December/January issue. Your next issue will be dated February 2006.

Happy New Year!

Your December update is on its way. Please watch for its arrival.

HHS OIG Issues Draft of Compliance Guidance for NIH/PHS Grantees

The Department of Health and Human Services (HHS) Office of Inspector General (OIG) has published a draft of its long-awaited compliance guidance for recipients of extramural research awards from the National Institutes of Health and other agencies of the Public Health Service. The purpose of the guidance is to encourage "the use of internal controls to effectively monitor adherence to applicable statutes, regulations, and program guidance."

The primary focus of the guidance is the establishment and maintenance of an institutional compliance program. While it suggests that there is no single best compliance program, the document makes it very clear how the OIG believes such a program should be structured. At a minimum, the compliance program should include the following eight elements:

(1) Development and distribution of written standards of conduct and written policies and procedures showing an institution's commitment to compliance

(2) Designation of a compliance officer and a committee with reporting lines at the highest level of the institution

(3) Development of regular, effective education and training programs for all affected employees

(4) Creation and maintenance of an open line of communication between the compliance officer and employees, including a hotline or other system designed to assure anonymity

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NSF Explains FY 2006 Implementation Strategy for Grants.gov Applications

The National Science Foundation (NSF) recently posted its Grants.gov implementation strategy and published a list of specific programs that will either require or permit use of Grants.gov to prepare and submit NSF proposals. NSF is in the process of revising approximately 100 funding opportunity notices to allow for the Grants.gov submission. The funding opportunities will be posted to Grants.gov FIND and made available for submission in Grants.gov APPLY. Until these opportunities are posted, applicants should continue to use NSF FastLane.

Neither collaborative proposals nor any other proposals that use subawards (even if the funding opportunity requires the use of Grants.gov) may be submitted to NSF using Grants.gov, according to the implementation plan. These proposals must be submitted through NSF FastLane.

The application packages for these funding opportunities will consist of Grants.gov Pure Edge forms and NSF-specific forms. The NSF *Grants.gov Application Guide* will serve as the instructions for proposal preparation and submission. The guide does not require many of the processes that proved problematic in the NIH implementation of Grants.gov, such as an additional validation in the agency's system or a deadline that is beyond the normal business hours of most institutions.

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For many institutions, this will be the first time that NSF proposals will be submitted through Grants.gov, rather than FastLane. Institutions should become familiar with the NSF *Grants.gov Application Guide* to determine whether and how they will most effectively submit NSF proposals through the portal. The following are important items to remember:

◆ Principal investigators and administrative staff must be registered in NSF FastLane.

◆ NSF will only accept PDF attachments and is very specific regarding what should not be used (e.g., do not use Blocked PDF Producers; do not use Adobe Acrobat Encryption or Security Settings, etc.).

◆ Submission in Grants.gov does not negate any of the current format requirements required in FastLane.

The box on page 3 lists the Web addresses for the NSF Grants.gov strategy and application guide. ✧

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OMB Proposes Bulletin for 'Good Guidance Practices'

The Office of Management and Budget (OMB) recently posted a proposed bulletin regarding how federal agencies develop, issue, and use guidance documents (see www.whitehouse.gov/omb/inforeg/regpol/good_guidance_preamble.pdf). Guidance documents are frequently issued as agency interpretations or implementations of federal policy or regulations, issuance of "best practices" to the community, or even interpretation of a technical issue. For research administration, these documents range from HHS guidance on human subjects to the recently issued draft OIG *Compliance Guidance for PHS Grantee*s (see related story, p. 1).

OMB is concerned that these guidance documents have not received the same careful consideration or vetting by the public as during the formal rulemaking process. The adoption of "Good Guidance Practices" (GGP) is intended to provide adequate review, public comment, and clarification, as well as consistency among the agencies for developing, issuing, and using these documents.

'Significant Guidance Document' Defined

The bulletin defines several key terms. The most notable definition is "significant guidance document," which is a guidance document that may (1) reasonably be anticipated to lead to an annual impact of $100 million or more or adversely affect in a material way the economy or a sector of the economy; (2) raise highly controversial issues related to interagency concerns or important administration priorities; (3) set forth initial interpretations of statutory or regulatory requirements or changes in interpretation or policy; or (4) concern novel or complex scientific or technical issues.

The bulletin has three major sections:

(1) Basic Agency Standards for "Significant Guidance Documents"

(2) Public Access and Feedback

(3) Notice and Comment on Economically Significant Guidance Documents

It clearly states that agencies should not use significant guidance documents to communicate new or different regulatory expectations. It also sets out formal publication and comment processes for "economically significant guidance documents" (guidance that meets the $100 million criteria above, excluding federal expenditures and receipts).

If the proposals in the bulletin are adopted, they could have a positive and significant impact on the

research community, depending upon the agency's final interpretation of "Significant" and "Economically Significant Guidance Documents." GGP may ensure public vetting and transparency into the development of future agency guidance, which may be problematic and inconsistent with university understanding and interpretation.

For a copy of the bulletin, go to www.whitehouse.gov/omb/pubpress/2005/2005-30.pdf. ✧

New Director of HHS DCA Outlines Priorities

Paul Nacon, the new Director of the Department of Health and Human Services (HHS) Division of Cost Allocation (DCA) met recently with the Council on Governmental Relations (COGR) Costing Committee to outline his vision and priorities for DCA. At the top of his list — to get the four regional offices to work together as a division and apply and interpret the cost principles and conduct F&A rate proposal review, evaluation, and negotiation consistently.

Mr. Nacon already has implemented a directive regarding requests for extensions of F&A rates. Under this directive, universities requesting F&A rate extensions may not need to accept a rate reduction if sufficient cost data are submitted. He also indicated that universities submitting cost data that include projections on new facilities may be able to negotiate a rate increase during the extension.

The consistent treatment of facilities projections between regions is a DCA priority, Mr. Nacon said. Criteria will be developed for DCA rate negotiators, and the office will accept projections, provided they are calculated properly under the criteria.

Other issues that Mr. Nacon will address are the following:

◆ The fairness of the practice of some federal rate negotiators who insist that universities include depreciation on federal equipment in the equipment pool and then reduce the allocation to the research function by the amount of the federal equipment depreciation.

◆ The viability of, and necessary documentation to justify, the cost treatment of room-by-room depreciation when significant remodeling or renovations have occurred.

◆ The arbitrary reduction by rate negotiators of the research allocation of space surveys, sometimes by as much as 20 percent. According to Mr. Nacon, DCA will be required to provide justification based on data analysis to dispute the results of space studies.

◆ Finally, for universities that claim operations and maintenance (O&M) at the departmental level, Mr. Nacon indicated that the division might be able to develop a formula similar to the Direct Cost Equivalent (DCE), but based on square footage, to assign O&M costs. ✧

NSF Web Addresses for Grants.gov

The Web addresses for the NSF FY 2006 Grants.gov Implementation Strategy (see story p. 1) are:

Policy: www.nsf.gov/bfa/dias/policy/docs/grantsgovadvisory06.pdf.

GrantsAffected: www.nsf.gov/bfa/dias/policy/docs/grantsgovlisting06.pdf).

Application Guide: www.nsf.gov/bfa/dias/policy/docs/grantsgovguide.pdf.

NIH Considers Options to Cut NRSA Training Grants

The National Institutes of Health (NIH) conducted a town hall meeting on Nov. 30, on tuition reimbursement policies for the Ruth Kirschstein National Research Service Awards (NRSA) program. Because of its constrained funding environment, NIH is considering ways to trim the cost of NRSA program operation. At the meeting, the agency heard from the research community regarding the following three options:

◆ Option 1 applies the current tuition payment formula but sets a new ceiling on the amount of tuition reimbursement — $16,000 and $18,000 are the suggested ceilings.

◆ Option 2 replaces the current tuition formula with a fixed tuition allowance for each grantee institution and again suggests either a $16,000 or $18,000 ceiling.

◆ Option 3 retains the current policy, which provides each trainee with a tuition allowance of $3,000 plus 60 percent of tuition in excess of $3,000. Under this option, the number of NRSA trainees and training programs supported by the NRSA program would be determined by the amount of funding available.

The representatives of the associations of major research universities, academic medical centers, and biomedical scientists urged NIH to adopt Option 3 and retain the current NRSA tuition reimbursement policy. While acknowledging the difficult funding situation for NIH and how critical NRSA awards are to the nation's scientific health and vitality, the associations argued

that shifting all incremental costs to universities would place an undue financial hardship on many institutions that are unable to provide the additional tuition subsidy required if a cap were imposed. Conversely, representatives from a number of individual universities argued that preservation of the number of trainee slots was the most important factor and supported the other options for either a ceiling or a fixed allowance.

Next Steps Outlined

Dr. Norka Ruiz Bravo, deputy director of NIH Extramural Research, outlined the next steps NIH will take, as it determines what, if any, changes will be made to the NRSA tuition policy. NIH will post its own summary of the town hall meeting on its Web site and develop various policy options. In late January or early February 2006, it will present the options to internal NIH management and policy officials. Once decided, the new policy will be announced in the *NIH Guide* and/or the *Federal Register* in March or April 2006. ✧

Grad and Postdoc Education Support Principles Proposed

The White House Office of Science and Technology Policy (OSTP) issued a *Federal Register* notice on Nov. 16, 2005, requesting comments by Jan. 16, 2006, on a set of proposed Principles for Federal Support of Graduate and Postdoctoral Education and Training in Science and Engineering. The principles' goal is to increase collaboration and consistency within the federal agencies in support of graduate and postdoctoral students. The principles are:

◆ Federal support of graduate and postdoctoral education and training is a critical investment in the future.

◆ The federal investment portfolio must broadly support science and engineering disciplines.

◆ Graduate students and postdoctoral scholars must receive quality education and training.

◆ Federal contributions for graduate and postdoctoral education and training are provided in partnership with academic and other non-federal institutions.

◆ Graduate students and postdoctoral scholars should be adequately supported to encourage their pursuit of science and engineering careers.

◆ Federal agencies should collaborate in areas of common interest.

The impetus for this OSTP notice was the request in 2003 by the Research Business Models (RBM) Subcommittee of the Committee on Science for comments on ways to improve business practices of federal research programs. As stated by OSTP, "Concern was raised about the lack of consistency among Federal agencies' support for graduate students and postdoctoral scholars in the nation's universities and other research organizations. In particular, universities administering Federal support for graduate students and postdoctoral scholars cited difficulties created by agency-to-agency variations in fellowship and traineeship stipends and allowances for educational and other costs."

It is clear from discussions with OSTP officials that there is interest in establishing at least some level of consistency in the financial support for graduate students provided by the various research-supporting agencies. While OSTP recognizes that differences in support levels provided by federal agencies may be appropriate depending on program purpose, program budget constraints, or demand for individuals in critical areas, such variations should have clear, rational bases. ✧

HHS OIG Compliance Guidance

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(5) Definition of roles and responsibilities for oversight

(6) Use of audits and monitoring to assure compliance and identify problematic areas

(7) Appropriate enforcement for violations of institutional policies, procedures, and/or federal regulations

(8) Development of policies and procedures for the investigation of instances of noncompliance or misconduct

These compliance program elements are not substantially different from the recommendations for corporate compliance programs in the U.S. Sentencing Guidelines.

As it has in its other compliance guidance issued to the health care industry, the OIG flags a number of risk areas, including time and effort reporting, properly allocating charges to award projects, and reporting financial support from other sources. A close reading of the material presented for these risk areas provides cause for concern. For example, in the area of effort reporting, the guidance discusses the need for "accurate time and effort reporting systems" and "effective timekeeping systems." These statements are far more prescriptive than Circular A-21, which acknowledges that precise assessments are not always feasible or expected; universities, it says, should rely on estimates "in which a degree of tolerance is appropriate." The OIG has requested comments and extended the deadline to Jan. 30, 2006. ✧