

# FEDERAL GRANTS NEWS

*for Colleges and Universities*

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### Please Note:

This issue is a combined July/August issue. Your next issue will be dated September 2005.

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## Comments Sought on Agencies' Plan to Recognize Multiple PIs in Awards

Federal agencies are in the process of implementing the Office of Science and Technology (OSTP) January memorandum requiring recognition of more than one principal investigator (PI) on a research award. They have designed a plan and are asking for input from the research community on six core elements. In a "Request for Information Relating to Research Awards" (70 Fed. Reg. 41220, July 18, 2005), OSTP and the Office of Federal Financial Management (OFFM) in the Office of Management and Budget (OMB) explained each of six core elements and posed questions regarding them. The questions relating to each issue are in the box on p. 4.

**(1) Statement of What Constitutes a PI.** Institutions would be allowed to propose as a PI any investigator whom they judge to have the appropriate level of authority and responsibility related to the proper conduct of the study and submission of required reports to the agencies. All PIs would be named in the award, and the term "Co-Principal Investigator" would no longer be used.

**(2) Designation of Contact PI.** To facilitate communication, the institution would be required to identify a Contact PI to receive all agency communications related to the scientific, technical, and budgetary aspects of the project. The Contact PI would not have any special privileges or any additional responsibilities, other than ensuring that all PIs receive information that the agency transmits. The proposing institution designates the Contact PI, and if an institution does not identify the contact, then the funding agency will use the first-listed PI as the default.

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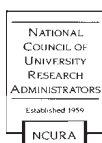
## HHS OIG Targets Cost Transfers in Its College and University Pilot Audits

Colleges and universities should expect a renewed presence of the Department of Health and Human Services' Office of Inspector General (HHS OIG) on their campuses. At a regional meeting of the National Council of University Research Administrators (NCURA), representatives of the HHS OIG explained that the increased size of the NIH budget requires the OIG to ensure that federal funds are being spent in accordance with the applicable regulations.

The HHS OIG already has been conducting audits at colleges and universities around the country as part of its 2005 Work Plan. The audits focus on cost sharing, level-of-effort reporting, subrecipient monitoring, and cost transfers. The OIG also is reviewing compliance with the NIH salary cap and with the prior approval requirements. Prior approval is required for shifts in investigator effort that exceed 25 percent.

The audit of cost transfers grew out of observations made during proactive site visits by NIH between 2000 and 2002. One comment in the report on the 2002 visit cycle observed the following:

Cost transfer policies tend to be nonexistent, incorrect, or confusing, and the requirements for making appropriate cost transfers are often misunderstood by institutional officials, especially PIs, and depart-



mental administrators. (See <http://grants1.nih.gov/grants/compliance>.)

Cost transfers also were at issue in the recent \$6.5 million dollar settlement with the Mayo Foundation.

For this reason, the cost transfer audits assess whether the institution has a significant number of unallowable cost transfers due to inadequate policies and controls.

### Circulars Have Little Explicit Guidance

Direct references to cost transfers in federal guidance documents are rare. OMB Circular A-21 does provide allowability criteria (reasonable, allocable, and consistent) that should be used in the approval of cost transfers. OMB Circular A-110 requires written procedures for allowable costs as well as accounting records

supported by source documentation. However, neither circular specifically addresses cost transfers.

Part II of the NIH *Grants Policy Statement* provides the most instruction regarding cost transfers. The following statements are the most relevant:

- ◆ Corrections of clerical or bookkeeping errors should be accomplished within 90 days of the discovery of errors.
- ◆ Transfers must be supported by documentation that fully explains how the error occurred and a certification by a responsible organizational representative that the new charge is correct.
- ◆ Explanations, such as “to correct error” or “to transfer to correct project,” are not sufficient.
- ◆ Transfers of costs from one project to another or from one competitive segment to the next are not allowable if they are made solely to cover cost overruns.
- ◆ Grantees must maintain cost transfer documentation pursuant to 45 CFR 74.53 or 92.42 and make it available for audit or other reviews.
- ◆ Frequent errors in recording costs may indicate the need for accounting system improvements, enhanced internal controls, or both. If such errors occur, grantees are encouraged to evaluate the need for improvements and to make improvements necessary to prevent reoccurrence.
- ◆ NIH may require grantees to take corrective action by imposing additional terms and conditions on an award(s).

### Some Cost Transfers Are Red Flags

Cost transfers that are particularly suspect include the following:

- ◆ Transfers to or between federal projects
- ◆ Transfers that are late (greater than 90 days after discovery of the error)
- ◆ Transfers to a federal project occurring at the end of the project, thereby giving the appearance of utilizing funds inappropriately
- ◆ Transfers with an inadequate explanation
- ◆ Transfers between federal projects that clears an overrun on one of the projects
- ◆ Payroll transfers that are recorded in the accounting system but not corrected in the payroll system

Auditors tend to focus on late cost transfers (over 90 days), particularly payroll transfers, because they are easy targets and hard to defend if not properly documented. Payroll transfers are particularly vulnerable because the original charge has already been certified as correct. In the *Mayo* case, investigators focused on cost transfers that appeared to shift costs to underspent grants.

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To reduce their vulnerability, institutions must develop a cost transfer policy and ensure that the policy is kept current. The policy must be distributed to those responsible for assigning costs; the institution must provide periodic training and ensure that all transfers are adequately documented. It also is critical for the college or university to develop a monitoring system and to provide additional training to those institutional units with a large number of transfers. ✧

## DOD Proposes New Export Control Compliance Clause

Another volley has been fired in export control compliance. On July 12, the Department of Defense (DOD) proposed an amendment to its Defense Federal Acquisition Regulation Supplement (DFARS). The amendment would add a new DFARS Subpart 204.73, titled "Export-Controlled Information and Technology at Contractor, University, and Federally Funded Research and Development Center Facilities" (70 Fed. Reg. 39976, July 12, 2005).

The amendment responds to the DOD Inspector General's recommendation in 2004 that the agency implement a new export control requirement.

### Requires Access Control and Flow Down

The proposed subpart encompasses deemed exports and includes access control requirements. It prescribes a new clause 252.204-70XX, which would be used in solicitations and contracts for research and development or for services or supplies that involve the use or generation of export-controlled information or technology.

The new solicitation clause requires contractors to comply with all applicable laws and regulations regarding export-controlled technology and information, including registration in accordance with the International Traffic in Arms Regulations (ITAR). The contractor is required to maintain an effective export compliance program, including adequate protections for export-controlled information and technology to ensure that foreign firms and individuals have only restricted access. One provision in the clause is causing particular concern: contractors must implement an access control plan that includes badging requirements for foreign nationals and foreign persons and segregated work areas for export-controlled information and technology.

The proposed solicitation clause also requires contractors to conduct training on export control compliance for employees with access to export-controlled

## OMB A-133 Compliance Supplement

OMB has now posted the changes to the 2005 compliance supplement, but the 2005 revisions must be used in conjunction with the 2004 supplement because OMB did not reissue the entire text. Find the 2005 Compliance Supplement at [www.whitehouse.gov/omb/circulars/a133\\_compliance/05/cs5updates.html](http://www.whitehouse.gov/omb/circulars/a133_compliance/05/cs5updates.html). Notice of the posting appeared in 70 Fed. Reg. 41242 (July 18, 2005).

information and technology and to perform periodic assessments to ensure full compliance.

Contractors also must flow the requirements of the new clause down to subcontractors.

For institutions conducting research and development projects that do not meet the fundamental research exemption requirements and, consequently, are subject to the export control statutes and regulations, adoption of the proposed rule could be disruptive to their research operations and costly to implement.

Comments on the proposed rule are due by September 12, 2005. ✧

## NSF Revises Grant Guidance

The National Science Foundation (NSF) recently revised both its Grant General Conditions (GC-1) and its *Grants Policy Manual* (GPM) ([www.nsf.gov/awards/managing/](http://www.nsf.gov/awards/managing/)). While neither revision makes major changes, the following are notable:

**GC-1.** References to OMB Circular A-110 have been changed to 2 CFR 215, reflecting last year's movement of the circular into the *Code of Federal Regulations*.

- ◆ Requests for prior approval must *not* be submitted electronically via FastLane.

- ◆ The grantee is responsible for ensuring that the NSF program officer is provided access, either electronically or in hard copy, to every publication based on, or developed under, an award.

**GPM.** NSF updated the GPM to reflect a reorganization and other changes to its divisions, including the addition of the Division of Institutional and Award Support (DIAS).

- ◆ The definition of Principal Investigator/Project Director has been expanded to include co-PIs or PDs. If more than one PI is listed, the first name listed will have primary responsibility for the entire project and the submission of reports.

- ◆ The manual emphasizes that late and incomplete performance and financial reports could delay funding.
- ◆ NSF grants that are transferred to a new institution retain any special terms and conditions, including unsatisfied cost sharing requirements.
- ◆ Unless otherwise specified, the SF270 should be sent to the cognizant grants officer.
- ◆ GPM 850, National Security, includes procedures to follow if the investigator believes the research has generated information that requires classification.
- ◆ NSF reminds grantees that they are responsible for any activities taking place under NSF awards outside of the United States, and that they travel at their own risk. ✧

## Comments on Multiple PIs

*continued from p. 1*

**(3) Application Instructions for Listing More Than One PI.** Each agency would specify how it would modify its standard application procedures to reflect the multiple PI policy. This might include instructions for describing within the research plan the specific areas of responsibility for each PI and how the team will function. For large-scale, complex, multi-disciplinary projects, such as multi-site clinical trials, agencies already have special mechanisms in place that require management plans to address issues of coordination and decision making.

**(4) PIs at Different Institutions.** A multi-disciplinary team's PIs often are from different institutions, or when only a single institution is involved, the PIs are frequently from separate academic departments. One element of each federal agency's implementation, therefore, is how to recognize multiple PIs from different institutions. The key for each agency is to specify a method for recognizing multiple PIs that is consistent with the overall policy and that works for the types of business arrangements the agency uses to support multi-disciplinary research. For example, making one award to a single lead institution often is the best way to ensure good programmatic coordination of the overall team effort, with subawards from the lead institution to support the research efforts of the other institutions. Another alternative is to make separate awards to PIs at each collaborating institution; occasionally, an award to a consortium of institutions is most advantageous.

**(5) Access to Award and Review Information.** With the recognition of multiple PIs, agencies are likely to permit all named PIs access to award information and are considering whether to provide similar access to peer review information.

### Multiple PI Questions

- Q 1: Are there any difficulties associated with listing more than one individual as a PI?
- Q 2: Are there any difficulties that would be created by the designation of one PI as the Contact PI? Are there issues that would affect institutions?
- Q 3: What issues should the agencies consider in developing their instructions for applications naming more than one PI?
- Q 4: Recognizing that agencies differ in the structure of their business arrangements with institutions, are there ways for the agencies to recognize PIs for a team effort involving multiple departments or institutions? What issues should the agencies consider in deciding on the most appropriate award structure?
- Q 5: What are the benefits of granting access to award and review information to all named PIs, not just the Contact PI? What are the difficulties, if any, in granting such access?
- Q 6a: What are the benefits, if any, from listing more than one PI in agency databases? What are the difficulties, if any, with such listings?
- Q 6b: Would use of agency data systems with PI information warrant an investment in alterations to such systems?
- Q 7: Overall, how will the changes proposed for official recognition of multiple PIs benefit multi-disciplinary and inter-disciplinary research? Would the proposed changes help or harm the process of cooperation among researchers on a collaborative project?
- Q 8: What other suggestions do you have for facilitating the recognition of multiple PIs?

**(6) Access to Public Data Systems.** Each agency will describe the data system(s) that will list PIs. The current proposal is to have all PIs named on the award statement listed in the agency data system. If the agency will allow the public direct access to those systems, the agency must describe the access method.

The issue of multiple PIs is an important one to our investigators and our institutions, and the questions that are raised in this request for information are complex and not easy to resolve. In addition to the implications at the agency level, institutions themselves will need to consider whether their own systems need to be changed to reflect multiple investigators.

Comments are due to OFFM by Sept. 16, 2005. ✧