

FEDERAL GRANTS NEWS

for Colleges and Universities

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2006 OMB Circular A-133 Compliance Supplement Targets R&D Cluster

The Office of Management and Budget (OMB) has issued the *OMB Circular A-133 Compliance Supplement* for 2006. The annual supplement identifies compliance requirements and audit objectives; it also suggests procedures for auditors to follow when conducting the A-133 audit.

For colleges and universities, the major changes in the 2006 supplement occur in the guidance for audit of the "Research and Development Cluster" in Part 5. As described in the list of changes to the previous supplements (Appendix 5), the cluster has been updated "to draw the auditor's attention to areas of vulnerability."

Compensation and Related Benefits. In "B., Allowable Costs/Cost Principles," the supplement instructs the auditor to pay close attention to payroll distribution methods and, in particular, to certification of such payroll. According to the supplement, "Failure to make the required confirmation... in an accurate and timely manner... is one of the principal internal control weaknesses associated with recent cases of noncompliance." The auditor should test for the following:

- (1) That salaries are confirmed by a person with first-hand knowledge, by the principal investigator, or by a responsible official, using suitable means of verification of the work performed; and
- (2) That the compensation rate conforms to the established policy of the institution and is consistently applied, regardless of funding source.

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NIH Changes Business Processes and Revises Proposal Forms

The National Institutes of Health (NIH) has made a series of policy changes in 2006, and on April 7 it announced a number of significant revisions to its business processes and forms to accommodate these changes. The changes become effective May 10, 2006.

PI Signature. NIH no longer requires the signature of the principal investigator (PI) on grant applications, progress reports, and prior approval requests. Instead, for grant applications and progress reports, the institution now must secure from the PI for each application a dated and signed statement that includes the following certifications (these previously appeared on the grant application face page and progress report):

- ◆ The information submitted within the application is true, complete, and accurate to the best of the PI's knowledge.
- ◆ Any false, fictitious, or fraudulent statements or claims may subject the PI to criminal, civil, or administrative penalties.
- ◆ The PI agrees to accept responsibility for the scientific conduct of the project and to provide the required progress reports if a grant is awarded as a result of the application.

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NIH also makes it clear that when multiple PIs are proposed in the application, each must make the same certifications.

For prior approval requests, the signature of the PI will no longer be required, but, as is true for the applications and progress reports, the institution is responsible for obtaining documentation from the PI.

Forms Revised

The NIH also has announced interim changes to the PHS 398 and 2590 forms to conform their formats to the SF-424 (R&R), especially with respect to budget information. Of significance is the use of person months instead of effort. Person months will be required when a detailed budget is presented, in modular budget justifications, and on the "other support" page. NIH has developed a conversion tool, "Percent of Time and Effort to Person Months Calculator," which is posted at http://grants1.nih.gov/grants/policy/person_months_conversion_chart.xls.

Other changes to the forms address the new rules for attaching publications as appendices, the multiple PI policy, the addition of a new section for select agency research in the research plan, and elimination of the two-page limit in the biographical sketch subsections A and B, positions and honors and peer-reviewed publi-

cations. NIH also has removed all instructions from the PHS 398 that relate to programs that have transitioned to electronic applications utilizing the SF-424 (R&R). The revised PHS 398 and 2590 forms (dated 04/06) must be used in all submissions after May 10. NIH also has made similar changes to its instructions for the SF-424 (R&R).

All of these announcements are available at www.grants.nih.gov/grants/guide/YearlyIndex/2006.htm, under "April 7." ♦

Grants.gov Is in Your Future: More Tips for Getting Ready

Federal Grants News has been providing tips for colleges and universities as they prepare for wide-scale use of Grants.gov. The March issue focused on an implementation schedule, assessment of functionality for non-Windows users, analysis of the transfer of large electronic files within the institution's environment, and development of a source of Grants.gov implementation information available to the community via e-mail or a college's or university's Web site dedicated to Grants.gov. The April issue stressed the need for education and training.

Many institutions are facing their first major Grants.gov electronic submissions (via its "Apply" function) with the NIH R03 and R21 grant deadline on June 1. This article raises internal issues that institutions may want to consider before the June deadline.

Consider an internal deadline policy for electronic submissions. Some institutions have a long-standing internal deadline policy or internal requirement for PIs to submit a proposal to the central sponsored programs office (SPO) several days before the agency deadline to ensure a complete review. This lead time permits sufficient time to evaluate proposals, certify that commitments offered can be honored, verify that information is accurate, and ensure compliance with institutional and sponsor policies.

Because electronic proposal submission systems continue to have glitches and operational problems, many institutions are considering earlier internal deadlines. For instance, there may be delays accessing and uploading files within the institution, to Grants.gov, to other electronic proposal submission sites, or any combination thereof. System response times can be difficult to predict, and the volume of submissions at the deadline may strain the capabilities of the submission site and create technical difficulties.

Institutions may want to evaluate their internal expectations and willingness to accept the risk that proposals may fail unless there is an additional

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“buffer” of a longer lead time for these electronic submissions. If an institution decides to establish a strict internal deadline, it should seek support for this policy from the highest levels of the university.

Internal deadline policies are intended to ensure the success of proposal submission. An institution should gauge how many days prior to the agency deadline it needs to receive a proposal and what is appropriate for its culture and environment. This likely would vary from three to seven business days. Policies should be specific with respect to what is meant by a business day, what is defined as a complete proposal (e.g., the science is completed), and a statement that the policy will be re-evaluated as electronic submission systems mature and the institution becomes more comfortable with related processes. SPOs may establish a strict deadline with the caveat that they will make a reasonable effort to submit late proposals but can offer no guarantees.

Maintain ongoing communication with the academic leadership and the community, particularly with ‘first-time’ applicants. Keep all levels of within the university up-to-date on any changes to internal processes and implementation. Offer education and training as resources permit.

For those investigators and departments that will be completing proposals for a program deadline, such as June 1 for the R03 and R21, set up a listserv, and send this audience additional information. For instance, if the institution finds that it will not be ready to implement a new internal file transfer protocol for the June 1 deadline, communicate this and advise the community of an alternative solution if an investigator is unable to send a large proposal file via e-mail.

Assess central office staffing for the first ‘big’ deadline. While seemingly obvious, ensure that the SPO has sufficient staff to handle the number of proposals that are expected. Encourage staff and faculty in all locations to formally document or inform the central office of problems. This will permit a full evaluation of the submission process to improve policies and practices for the next deadline.

Continue to evaluate with each submission. Finally, recognize that successful implementation of Grants.gov is an evolving process. Because each and every deadline will reveal how to improve the business process, staffing, or use of other resources, assessment of these areas after each submission cycle is critical. Institutions should recognize that the federal partners are conducting the same assessments, and agencies are more than willing to work with the community during this time of transition to Grants.gov.

Take advantage of the opportunity to post comments and suggestions to the federal agencies. Recognize that “Rome was not built in a day,” and feedback will contribute to the improvement of the proposal submission process for the faculty and the SPO. ✧

Program Income Policy Is Key to Compliance

Every sponsored program office should have a policy dealing with program income. This has been a requirement of federal grants and cooperative agreements for some time, but the National Institutes of Health (NIH) only began focusing on program income after the investigation of a Big Ten university revealed a substantial amount of unreported program income. Program income is also a compliance requirement of the A-133 audit (Part III, section J).

Program income is defined as gross income that is directly generated by a federally or nonfederally supported grant or earned as a result of a sponsored award. Examples include: fees for services performed, such as lab tests; proceeds from the sale of products, such as software, tapes, or publications; proceeds from the sale of research materials, such as animal models; fees from participants in conferences or symposia; proceeds from the sale or rental of equipment, supplies, or property purchased with project funds; and license fees and royalties from patents and copyrights. Excluded from the definition of program income is interest earned on advances of federal funds or receipt of the principal of loans, rebates, credits, or discounts, and any interest earned on the principal.

Use Separate Accounts

The best way to track program income is to establish a separate account for each program that generates such income. Not all program income is reportable. For example, unless otherwise specified in the terms and conditions of the award, income from license fees and royalties for patents and copyrighted materials do not need to be reported. While program income is defined as gross income, only net income is reportable.

The reporting obligations exist only for the life of the award unless the terms of the award specify otherwise.

A-110 Provides Guidance

Guidance for program income for federal grants and cooperative agreements is contained in OMB Circular A-110. The circular instructs federal agencies to

require fund recipients to handle program income in one of three ways:

- (1) Add it to available project funds and use it to meet program objectives.
- (2) Use it to meet the nonfederal (cost sharing) share of the project.
- (3) Deduct it from the total project or program allowable costs.

For research awards, the additive approach (in (1)) automatically applies unless otherwise specified in award terms and conditions. For nonresearch awards, the deductive approach (in (3)) automatically applies, unless otherwise specified in the award terms and conditions.

Restrictions on program income for nonfederal awards vary widely, and the best advice is to check the award conditions before assuming no requirements apply.

Develop the Policy First, Then Review

The first step in achieving compliance regarding program income is to develop a policy. Once a policy is complete, it should be reviewed periodically to make sure it is up-to-date. Items that should be covered in the policy include the following:

- ◆ The requirements for program income for federal grants and cooperative agreements, as indicated above, including a review of the award for specific terms and conditions (such as the deductive method for nonresearch awards)
- ◆ A requirement that a separate account be established for each award, as appropriate, to capture and track program income
- ◆ Inclusion of an item on the proposal routing form that discloses whether program income is anticipated
- ◆ Roles and responsibilities (who does what) and related procedures at each step in the life cycle of the project

The success of properly capturing and reporting program income relies on identification of such by the principal investigator (PI). The departmental administrator also can assist in this process by keeping the sponsored programs office informed. As such, it is critical that the institution's policy is widely circulated, and that PIs and administrators receive training as often as needed.

Establish a Monitoring System

A monitoring system will help ensure continuous compliance. Designing and implementing a program income monitoring system can be a challenge because program income can be difficult to identify. One possible method is to review departmental revenue; an-

other might be to review any deposits made to a federal account.

Program income represents another compliance area where the proper design and implementation of a policy is necessary. As is the case with most sponsored programs issues, the keys to successful compliance are ongoing communication between sponsored program offices and the PIs and departmental administrators, reinforced by a good monitoring system. ✧

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The auditor also is directed to look at salary restrictions, such as the National Institutes of Health (NIH) funding cap.

Cost Transfers. The auditor is directed to review journal entries and costs charged to federal R&D projects and test a selected sample to determine the allowability of the cost transfers. The supplement suggests that a significant number of cost transfers between unrelated projects could signal poor internal controls, and poor internal controls could be a noncompliance finding.

Key Personnel Commitments. Finally, the auditor should test the commitment of key personnel to determine whether any changes in the personnel or their time commitments required approval from the awarding agency, and if so, whether it was obtained.

Other Changes Mirror 'Common Findings'

A common finding in A-133 audits is the applicability of the suspension and debarment regulations to an institution's purchases. Part III, section I, of the supplement has been updated to incorporate changes made by the Nov. 23, 2003, revision to the Common Rule. The major revision lowered the threshold of a "covered transaction" from \$100,000 to \$25,000. This reduction has forced institutions to verify the eligibility of many more vendors, contractors, and subrecipients to ensure that none of these entities has been suspended, debarred, or otherwise excluded from transactions with the government.

Other areas of frequent findings for colleges and universities include cash management, subrecipient monitoring, and program income (see related article, page 3). The supplement did not make any changes in the audit provisions for these areas.

The full text of the 2006 supplement is posted at www.whitehouse.gov/omb/circulars/a133_compliance/06/06toc.html. ✧