

# FEDERAL GRANTS NEWS

*for Colleges and Universities*

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## Congress Asks HHS Inspector General to Investigate Use of NIH Funds

More than a few sponsored research administrators probably winced when they saw the front page of the August 16 *Wall Street Journal*, which featured the article, "As Universities Get Billions in Grants, Some See Abuses," and waited for the other shoe to drop. Now Congress has caught up on its summer reading and has dropped the other shoe — the U.S. House of Representatives' Energy and Commerce Committee has asked the HHS Inspector General (IG) to investigate the use of NIH grant funds. In two letters dated September 20, the committee cites the *Journal* article and concludes that the size and number of settlements between NIH grantees and the U.S. Department of Justice (DOJ) indicate "a need for further examination of some of the issues" — a conclusion that grantees also should take to heart.

### Research Assistant Compensation Is One Target

One letter focused on research assistant compensation. Congress's particular concern is whether state universities are using NIH grant funds to compensate graduate research assistants for tuition remission, rather than for actual work on projects funded by NIH grants. The letter said that the committee had received allegations of a university "misusing NIH grant money to unreasonably compensate

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## Government Representatives Brief FDP on Electronic Proposal Progress

Whether you are interested in Grants.gov or the new SF424 (R&R) applications, the Federal Demonstration Partnership (FDP) meetings are always a good place to catch up on what the various government offices and programs are doing to streamline the grant process, and the mid-September meeting was no exception.

Grants.gov, which, just one year ago, had received approximately 1,000 applications, met its FY 2005 performance goals, receiving over 15,600 electronic applications, according to Rebecca Spitzgo, Grants.gov program manager. She also reported that 24 of the 26 federal agencies that make assistance awards have posted electronic application packages on Grants.gov's APPLY.

On October 31, 2005, FIND and APPLY will be officially merged, which will result in a uniform look and feel in the application process. This merger will officially eliminate the [www.FedGrants.gov](http://www.FedGrants.gov) URL.

For FY 2006, the program has set the following goals: posting of 100 percent of all funding opportunities on FIND; posting 75 percent of FIND opportunities on APPLY; and receiving 45,000 electronic applications.

To accommodate this growth, Spitzgo said, Grants.gov will continue to make architecture upgrades to allow the submission of electronic applications by all types of users in a timely fashion. The program office is making headway on support for

### Editor

Jane A. Youngers  
University of Texas  
Health Science Center  
at San Antonio

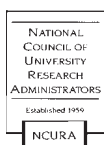
### Contributing Editors

Jerry G. Fife  
Vanderbilt University

Gunta Lidars  
University of Rochester

### Managing Editor

Frances Fernald



Mac/Unix/Linux users. In the short term, the office will add a Citrix server in December 2005 and a PureEdge Native Mac Viewer in November 2006. Grants.gov already increased the number of Web servers from two to four in June and will add another four in October when FIND and APPLY merge. At the time it adds the new servers, it will move to "dynamic server allocation," which will speed up the application function.

### 'Components' of SF424 (R&R) Reviewed

Jean Feldman of the National Science Foundation (NSF) updated the attendees on the SF424 (R&R). The original SF424 omitted key information needed by agencies supporting research activities, specifically biographical information, current and pending support, standard budget categories found in research proposals, compliance information, such as human, animal, and recombi-

nant DNA approvals, and demographic data. With the new SF424 (R&R), agencies can capture this data.

The standard components of the SF424 (R&R) are the cover pages, which include certification and assurance language, project/performance site locations, other project information, senior/key person profiles, personal data for project director/principal investigator and any co-directors/co-investigators only), and the budget.

Each federal research agency will be able to determine what additional information it needs and may add this information to the standard application. The information will appear to be part of the SF424 (R&R) but will be identified as specific to each agency, for example, by using agency logos.

Feldman noted that agencies are making some progress in agreeing upon uniform programmatic applications. For example, a team of multi-agency program managers has just completed a uniform application for the many SBIR/STTR (small business research) programs.

### NSF, NIH Will Add Information

Feldman said that NSF will require an additional cover page and checklist and will provide optional forms, including one where the applicant may suggest application reviewers. (See [http://thefdp.org/Present2\\_Sep2005.pdf](http://thefdp.org/Present2_Sep2005.pdf) for the NSF addition.)

According to Megan Columbus, the NIH program manager for electronic receipt of grant applications, NIH does not anticipate using the personal data elements of the SF424 (R&R), presumably because NIH will access that information from the principal investigator's NIH Commons registration. It does intend to use the SF424 (R&R) standard subaward budget attachment.

NIH also will require the PHS 398 cover letter file, cover page supplement, research plan, modular budget, and checklist. Another NIH staff member noted the need for additional data elements to capture human subjects information.

### Time Calculation to Change

One feature of the SF424 (R&R) that is different from the current practice of many agencies, particularly NIH, is the use of person months rather than percent of effort to project the amount of time devoted to the grant. Grantees will be able to convert percent of effort to person months, but it is not known whether individual agencies will implement person months to reflect the amount of time paid by the funding agency or the amount of effort committed to the project. In some cases, these may differ.

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Editor, Jane Youngers; Managing Editor, Frances Fernald; Contributing Editors, Jerry G. Fife, Gunta Lidars; Desktop Publishing Specialist, Shanara McKinnon; Marketing Director, Donna Lawton; Circulation Manager, Laura Baida.

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## The Status of FDP Terms and Conditions

Speakers at the September FDP meeting reported progress toward the adoption of the FDP terms and conditions as the standard for all extramural research funding to colleges and universities.

Last January, the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget (OMB) issued a joint notice of proposed policy that would make the current FDP terms and conditions applicable to all federal research and research-related assistance awards made to academic and nonprofit grantees. The proposed policy also would require federal agencies to minimize the amount of agency-specific, program-specific, or award-specific terms and conditions that they add on to the FDP terms and conditions. Once issued, the FDP terms and conditions would be named the "research" terms and conditions.

Although no date has been announced, OMB is expected to publish a general notice in the *Federal Register* explaining the implementation of the research terms and conditions, presumably in the form of a modification to OMB Circular A-110, the administrative principles applicable to colleges and universities.

To help the grant community compare the A-110 requirements and the FDP policies, the Research Business Models Subcommittee of the National Science and Technology Policy, OSTP, has published a side-by-side document comparing OMB Circular A-110 and the research terms and conditions. This comparison document is posted at <http://rbm.nih.gov/rrtc.doc>.

## FDP Terms Only an Intermediate Step

Adoption of the new research terms and conditions are only an intermediate step in the grant streamlining process. Activities undertaken by federal agencies in compliance with Pub. L. 106-107, the Federal Financial Assistance Management Improvement Act of 1999, will eventually result in the development of standard terms and conditions issued by all federal agencies that will be incorporated in 2 CFR. The project will codify agency level and subagency level administrative requirements and put award terms and conditions and program-specific requirements into a common process and format.

When complete, there will be a standard award face page or Notice of Award, standardized inclusion of national policy requirements, the terms and conditions of the award, and a specific process that federal agencies will follow to include programmatic requirements. A matrix, which would allow grantees to note any deviations from the standard terms and conditions, regardless of whether they are at the agency or

program level, may be published as early as next spring for public comment.

## Grants Management Line of Business

Another federal initiative, called the Grants Management Line of Business (GMLB), may ultimately have a positive benefit for the grantee community. As described by Charles Havekost, the Chief Information Officer for the Department of Health and Human Services (HHS), this initiative is an effort to find common solutions for agencies in those areas where there is no need to conduct business differently. Grants and assistance awards are being targeted because the annual outlay for these awards is over \$540 billion spread out among 26 agencies and 900 separate grant programs.

What the GMLB would do, Havekost explained, is find a governmentwide solution to support end-to-end grants management activities. The goals of the project are to improve customer access to grant opportunities, increase efficiency of the application process, improve decision-making at the agency level, integrate with federal financial management processes, improve the efficiency of the reporting procedures in order to increase the usable information content, and optimize post-award and closeout actions. The project's scope will be the continuum of all grants management processes.

GMLB intends to align agency work teams around shared business interests (consortia) to develop a service center that meets the member agencies' needs in a specific area. Financial and performance reporting is an example of an area that would benefit from a common solution. Havekost cited IEdison, the interagency invention reporting system, as an active example of how agencies can work together.

HHS and NSF are co-leads on the project, and there is extensive coordination with other federal grant streamlining activities. Havekost specifically asked the audience to identify grant activities that could benefit and be simplified by using a common approach to agency back- and front-office processes. The audience urged him to make a specific call for community input to the process. ✧

## DoD Updates DoDGARs with Recent Developments

In the August 23 issue of the *Federal Register*, the Department of Defense (DoD) published final rules affecting the its Grant and Agreement Regulations (DoDGARs). This revision to the DoDGARs incorporated a number of changes ranging from OMB directives to statutory and regulatory changes.

### In Brief

**CREATE Act.** Final rules have been published in the September 14 *Federal Register* implementing the Cooperative Research and Technology Enhancement Act of 2004 (CREATE Act). This act amended the patent laws to provide an exemption from the "prior art" patent invalidation rules for research collaborators from different organizations (see *Federal Grants News*, Feb. 2005).

**Military Recruiting on Campus.** The United States Supreme Court will hear arguments in *Rumsfeld vs. The Forum for Academic and Institutional Rights* on Dec. 6. The suit challenges, on First Amendment grounds, the "Solomon Amendment," which denies federal grant money to an entire campus if any one part prohibits military recruiting on campus. See [www.aaup.org](http://www.aaup.org) for a press release on the challenge.

**OMB Directives.** The DoDGARs were amended to incorporate the governmentwide standard format for program announcements, electronic posting of synopses of program announcements on Grants.gov, use of the DUNS numbers on grant and cooperative agreement applications, and the audit threshold increase from \$300,000 to \$500,000 for OMB Circular A-133 audit coverage. The rules also reflect the increased threshold from \$25 million to \$50 million per year in expenditures of federal funds for assignment of the recipient to a cognizant federal audit agency for audits.

**Debarment, Suspension, Drug-Free Workplace.** The changes to the DoDGARS incorporate the updated common rule on nonprocurement debarment and suspension rules as well as the drug-free workplace requirements.

**Campus Access for Military Recruiters.** The amendments also update 32 CFR 22.520 to reflect recent statutory changes to 10 USC 983, which prohibits certain agencies, including DoD, from awarding grants to colleges and universities that do not allow military recruiting. While these grant conditions have been in the DoDGARs for more than 10 years, the revision broadens the reach of the regulation, prohibiting institutions of higher education from receiving DoD grants or contracts if any part of the institution has a policy or practice that prohibits a ROTC program on campus, denies access and information for military recruiting, or does not provide access for recruiting equal to that of other employers. The statutory changes have been challenged in court. See "In Brief," above. ✧

## Congressional Letters

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graduate research assistants." If the OIG finds misuse of funds, the letter continued, the committee would like the OIG to determine whether such practices violate any federal law, regulation, or policy, or are "an inappropriate use of taxpayer dollars."

The committee letter did not acknowledge that OMB Circular A-21 allows institutions to pay both salaries and tuition remission from grant funds as long as the compensation is reasonable for work performed. It did reference the 1996 NIH policy, which established the salary and tuition remission benchmark for graduate student compensation as the equivalent compensation of a first-year postdoctoral student performing comparable work. It also referenced a 1999 General Accounting Office report on whether compensation paid to graduate students at the University of California was reasonable and in compliance with Circular A-21 and other requirements.

The letter singled out the University of California, Davis, which has posted the salary scale of its postdocs on its Web site. According to the letter, graduate student compensation appears to be six times as much as that of postdocs and raises questions of reasonableness and "serious public policy concerns of waste, effectiveness, and integrity of taxpayer-supported research programs."

### Second Letter Raises Effort Issues

The companion letter addressed issues in the DOJ settlement with Cornell University's Weill Medical College over disparities between grant applications and reports and actual research activities, particularly in the areas of patient care and the clinical centers funded by NIH. The letter asked the IG to examine whether there are, indeed, widespread disparities between the number of projected research activities and the number of research activities actually performed.

### Congress Requests Broad Audits

The committee also asked the OIG to audit a number of the largest NIH-funded clinical research grants, not only for project discrepancies, but also for "false statements, improper accounting, improper charges to NIH grants, and even fraudulent double-billing of the Medicaid program for inpatient fee charges incurred in connection with protocols performed under these clinical research center grants."

Needless to say, the OIG does not take requests from Congress lightly. Universities with large NIH clinical research grants should expect to hear from the OIG. ✧