Uniform Guidance Overview

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Chronology of NIH's Implementation of the Uniform Guidance

- **December 19, 2014 - HHS published in the Federal Register an interim final rule adapting OMB's final guidance in 2 CFR Part 200. See NOT-OD-15-046.**
  - Located at 45 CFR Part 75
  - Effective December 26, 2014
  - 60-day comment period (ended on February 17, 2015)

- February 5, 2015 - NIH published Interim General Grant Conditions, which aligned with HHS' implementing regulations of the Uniform Guidance. See NOT-OD-15-065.

- March 31, 2015 - NIH published the revised NIH Grants Policy Statement (GPS), which superseded NIH's Interim General Grant Conditions. See NOT-OD-15-087.

Revised NIH Grants Policy Statement

- **The revised NIHGPS serves as NIH's implementation of 45 CFR Part 75.**
  - Revision supersedes, in its entirety, the 2013 NIHGPS as a standard term and condition of award.
  - The revision is applicable to all NIH grants and cooperative agreements with budget periods beginning on or after December 26, 2014 and awards that received supplemental funding on or after December 26, 2014.
- **The 2013 NIHGPS continues to be a standard term and condition for all NIH grants and cooperative agreements with budget periods that began between October 1, 2013 and December 25, 2014.**
  - However, once a new increment of funds is received, the new NIHGPS will apply to any previous or current fiscal year funds that are uncommitted or unobligated as of the Federal award date.

Examples of Frequently Asked Questions - Applicability

- **I received a NoA prior to December 26, 2014. I subsequently received a revised NoA to name a replacement PI after December 26, 2014. Which HHS regulations and NIHGPS apply?**
  - Since the revision did not include additional funds, the pre-Uniform Guidance regulations and NIHGPS would apply. That is, 45 CFR Part 74 or 45 CFR Part 92—as applicable and the 2013 version of the NIHGPS.

- **I received a NoA on or after December 26, 2014, documenting the approved carryover amount from a previous fiscal year. Which HHS regulations and NIHGPS apply?**
  - The HHS regulations at 45 CFR Part 74 or 45 CFR Part 92 would apply as applicable, in addition to the 2013 version of the NIHGPS.
  - However, once a new increment of funds (supplement) is received, the new HHS regulations at 45 CFR Part 75 and the 2015 version of the NIHGPS will apply to any previous fiscal year funds that are uncommitted or unobligated (carryover) as of the Federal award date.

Acronyms and Definitions

Acronyms: Updated NIHGPS & Supplemental Instructions (SI) and NIH website to reflect changes

Definitions: Updated NIHGPS & SI and NIH website.

- Added 56 new terms in Exhibit 2: Definitions of Terms (NIHGPS).
- Modified definitions of 39 terms and deleted 6 other terms from Exhibit 2.

New Definitions

Definitions:

The following are examples of new definitions that have been incorporated into the NIHGPS as follows;

- *Commercial organization* - An organization, institution, corporation, or other legal entity, including, but not limited to, partnerships, sole proprietorships, and limited liability companies, that is organized or operated for the profit or benefit of its shareholders or other owners. The term includes small and large businesses and is used interchangeably with "for-profit organization."

- *Expenditure report* - Means: (1) For non-construction grants, the SF-425 Federal Financial Report (FFR) (or other OMB-approved equivalent report); (2) for construction grants, the SF-271 "Outlay Report and Request for Reimbursement" (or other OMB-approved equivalent report).

New Definitions (cont.)

Definitions (cont.):

- *Non-Federal entity* - A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

- *Participant support costs* - Direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects. For the purposes of Kirschstein-NRSA programs, this term does not apply. NIH will continue to use the terms trainees, trainee-related expenses, and trainee travel in accordance with NRSA Regulations.

Modified Definitions

Definitions (cont.):

The following are examples of definitions that have been modified within the NIHGPS as follows;

- *Disallowed costs* - Those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.

- *Equipment* - Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000.(See also capital assets, computing devices, general purpose equipment, information technology systems, special purpose equipment, and supplies.)

Modified Definitions (cont.)

Definitions (cont.):

- *Federal share* - The portion of the total project costs that are paid by Federal funds.

- *Grantee* - See Recipient.

- *Recipient* - An entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term may also include an Individual. The term recipient does not include subrecipients, except as indicated below. See also Non-Federal entity.

The Notice Of Award

NIH Notices of Awards have been revised to reflect the following:

- Federal award date
- Total approved cost sharing or matching (replaced Non-Federal share)
- Total Amount of Federal Funds Obligated (Federal Share)
- Added Catalog of Federal Domestic Assistance (CFDA) name in addition to the CFDA Number
- Added Period of Performance above the Budget Period and Project Period
- Added Research & Development (R&D) Indicator

Cost Principles

Cost Principles

The cost principles are set forth in HHS regulations at 45 CFR Part 75, Subpart E and Appendix IX (hospitals) to Part 75.

- OMB Circulars A-21, A-87 and A-122 have been consolidated and into a single source document relocated to 2 CFR Part 200, Subpart E—Cost Principles.

The cost principles continue to address the four tests to determine the allowability of costs. The tests are as follows:

- Reasonableness (Including Necessity).
- Allocability
- Consistency
- Conformance

F&A Reimbursement

Reimbursement of Facilities and Administrative Costs

- **F&A rates continue to be negotiated by DCA, DFAS in the Office of Acquisition Management and Policy at NIH, or other agency with cognizance for F&A/indirect cost rate (and other special rate) negotiation.**
  - DFAS is responsible for negotiating F&A rates for commercial organizations for HHS.

- **However, consistent with 45 CFR 75.414(f), any non-Federal entity that has never received a negotiated indirect cost rate (except for certain types of non-Federal entities) may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC).**
  - NRSA training grants and career development awards - F&A reimbursement remains at 8% of MTDC
  - Foreign – F&A reimbursement remains at 8% of total direct costs (less only equipment)

Selected Items of Cost

Revisions to Selected Items of Cost

- Added Participant Support Cost
- Added Temporary Dependent Care Cost
- Added Rearrangement and Reconversion cost
- Value Added Tax Policy – modification of NIH's customs and import duty tax policy

- **See Chapter 7.9.1 of the NIHGPS for details.**

Prior Approvals

Prior written approval

- NIH will continue its longstanding Expanded Authorities policy (NIH Standard Terms of Award).
  - NIH Standard Terms of Award allow agencies to waive certain cost-related and administrative prior approval.
    - Examples:
    - Re-budgeting of funds, provided that the change does not result in a change of scope
    - Carryover of unobligated balances from one budget period to any subsequent period (prior approval still required for some awards)
    - The first extension of final budget period of a project period without additional NIH funds (no-cost extension)

Prior Approvals (cont.)

Examples of Additional Cost Related Prior Approvals waived by NIH:

- Incur pre-award cost up to 90 days before the beginning date of the initial budget period of a new or renewal award.
- Provide subwards based on fixed amounts, provided that the subawards meet the requirements for fixed amount awards in 45 CFR 75.201. *"new UG provision"*
- Direct charge the salaries of administrative and clerical staff if conditions in 45 CFR § 75.413 are met. *"new UG provision"*
- Direct charge capital expenditures for special purpose equipment with a unit cost over $5,000.
    - **See Chapter 8.1.1 of the NIHGPS for details.**

Procurement Standards

Procurement System Standards and Requirements

- Recipients must comply with the requirements in 45 CFR parts 75.327 through 75.335 for the purchase of goods or services through contracts under grants.
    - OMB has provided a additional one-year grace period for implementation of these subsections for institutions of higher education (IHEs) and nonprofit organizations. Thus, these requirements are expected to take effect for these entities for their first fiscal year after December 26, 2016.
    - **See Chapter 8.3.4.1 of the NIHGPS for details.**

Audits

Audit Requirements

- NIH recipients (other than Federal institutions) are subject to the audit requirements of OMB 2 CFR 200, Subpart F—Audit Requirements, as implemented by HHS at 45 CFR Subpart F and in the NIHGPS.
    - Any state or local government or non-profit organization (including IHEs) that expends $750,000 or more per year under Federal grants, cooperative agreements, and/or procurement contracts must have an annual audit.
        - Audit requirements for Foreign organizations are located in Chapter 16.7.4 of the NIHGPS.
    - **See Chapter 8.4.3 of the NIHGPS for details.**

Closeout

- **Closeout**
- Recipients must submit a final FFR, final progress report, and Final Invention Statement and Certification within 120 calendar days of the end of grant support. The reports become overdue the day after the 120 day period ends.
  - This provisions is aligned with the clarification being proposed for the Closeout provision within the Research Terms and Conditions Overlay document.
  - **See Chapter 8.6 of the NIHGPS for more information.**

Commercial Organizations

- **Special Provisions for Awards to Commercial Organizations**

- The provisions that apply to awards to commercial organizations are located in 45 CFR 75.215 and in Grants to For-profit organizations in Chapter 18 of the 2015 edition of the NIH Grants Policy Statement.

  - **The cost principles for commercial organizations remain in the FAR (48 CFR 31.2).**

Frequently Asked Questions (FAQs)

- **We developed FAQs for the Uniform Guidance and NIHGPS to address topics such as the following:**
  - Why did NIH issue “Interim Grant General Conditions?”
  - I received an NoA prior to December 26, 2014. I subsequently received a revised NoA to restore funds (per NIH 2015 fiscal policy) after December 26, 2014. Do the pre-Uniform Guidance regulations and 2013 NIHGPS still apply?
  - Has NIH changed its policy regarding cost-related prior approval requirements?
  - Are participant support costs allowable?
  - What is allowable regarding child care costs when travelling under a research grant?

Research Terms & Conditions

- **NSF & NIH are working with other Federal Research Agencies to develop a Research Terms and Conditions Overlay document.**
  - Overlay will serve as a companion document to provide additional clarity for select provisions consistent with government-wide research policy.

Participating Agencies

- **Department of Agriculture**
  - NIFA
- **Department of Commerce**
  - NIST/NOAA
- **Department of Energy**
- **Department of Transportation**
  - **FAA**
- **Environmental Protection Agency**
- **NASA**
- **NIH – co-Chair**
- **NSF – co-Chair**

Questions