How Changes to Title 2 Affect You

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What is Title 2?

- Issued by the Office of Management and Budget (OMB)
- Requirements apply to Federal agencies that make Federal awards to non-Federal entities
- Requirements are applicable to all costs related to Federal awards
- Originally Issued in January 2014
Approach for Updates

- Updates at this time are limited in scope
  - Support implementation of President’s Management Agenda Results-oriented Accountability for Grants CAP Goal and other Administration priorities;
  - meet statutory requirements and to align with other authoritative source requirements
  - clarify existing requirements.
- Over the past year, OMB has worked with agencies to draft and review changes
- NIH provided comments and recommendations via HHS
- Updates published 8/13/20
- Most changes will be effective November 12
How we implement at NIH

Statute
- Legislation
- No deviations, all must comply with law

Regulation
- 2 CFR 200
- HHS Implements at 45 CFR 75

HHS Policy
- HHS Grants Policy Administration Manual (GPAM)

NIH Policy
- NIH Grants Administration Manuals implement the HHS GPAM
- NIH Grants Policy Statement

We are here!
Where are we now?

• Changes to 2 CFR 200 published August 2020 will be effective this November

• HHS will implement the changes in 45 CFR 75 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards

• NIH is reviewing all updates and analyzing with current NIH policy

• Changes will be incorporated into the upcoming FY 2021 updates to the NIH Grants Policy Statement
Wins for the Extramural Research Community
Micro-purchase and Simplified Acquisition Threshold

- Original regulation included specific dollar thresholds for Micro-purchase and Simplified Acquisition Threshold
- Both thresholds were updated in 2018
  - Micropurchase: $10,000
  - Simplified Acquisition: $250,000
- Updated regulation refers to the Federal Acquisition Regulation (48 CFR part 2) rather than referencing specific dollar amounts
  - 2 CFR 200.320 Methods of procurement to be followed.
- Minimizes the need for future regulatory updates, as dollar amounts change
Subrecipient Monitoring

- Clarify that pass-through entities (PTE) are responsible for addressing only a subrecipient's audit findings that are specifically related to their subaward.
- NIH and NSF collaborated to develop this updated language for our recipient community.
- 200.332 Requirements for pass-through entities
  - The pass-through entity must not require use of a de minimis indirect cost rate if the subrecipient has a Federally approved rate.
  - The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving cross-cutting findings.
Closeout

• Updates to 200.344 Closeout
• Based on lessons learned from the Grants Oversight and New Efficiency Act (GONE Act)
• NIH recommended these changes to HHS and OMB
• Increases number of days to submit closeout reports fed-wide to 120 days (no change for NIH)
• Increasing overall timeframe for closing awards to one year after the period of performance
  • Current HHS deadline 270 days
Overview of Changes
Definitions

- New definitions added to capture commonly used terms not previously defined in regulation
- Existing definitions updated to standardize use across all parts of 2 CFR and make terms more consistent

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Performance

• One new section (program planning and design) along with updates made throughout related to establishing and tracking performance
  • 200.202 Program planning and design *new section*
  • 200.301 Performance Measurement *updated section*
  • 200.329 Monitoring and reporting program performance *updated section*

• Must design programs with clear goals and objectives
• Agencies must measure the recipient’s performance to show achievement of program goals and objectives
• Performance measures may differ depending on the type of program
  • For discretionary research awards performance reporting will be limited to the requirement to submit technical performance reports (for NIH this is the RPPR).
Standard Data Elements

• Language added to reference forthcoming OMB data standards
• These Federal-wide data standards are currently in draft
• 200.207 Standard Application Requirements
  • Application information collections must be approved by OMB under the paperwork reduction act and in alignment with the OMB-approved governmentwide data elements
• 200.328 Financial reporting
  • Awarding agencies must solicit only the OMB-approved governmentwide data elements for collection of financial information
Prohibition on certain telecommunications and video surveillance services or equipment

• New section – effective August 13, 2020 (NIH working with HHS and others to determine impact and compliance requirements)

• 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.
  • Grant, cooperative agreement, and loan recipients are prohibited from using government funds to enter into contracts (or extend or renew contracts) with entities that use covered technology. See section 889 of Public Law 115-232 (National Defense Authorization Act 2019).

• Covered telecommunications equipment or services includes equipment or services provided by several companies outlined in the legislation (e.g. Huawei, ZTE Corporations, Hytera Communications, etc.)
Domestic Preference for Procurements

- New section implements Buy American Hire American Executive Orders
  - EO 13788 Buy American and Hire American
  - EO 13858 January 21, 2019 Executive Order on Strengthening Buy-American Preferences for Infrastructure Projects
- 200.322 Domestic preferences for procurements
  - Non-Federal entities should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
  - The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.
Termination

• Changes to 200.345 Termination were effective August 13, 2020
• Updated to strengthen the ability of the Federal awarding agency to terminate Federal awards when the Federal award no longer effectuates the program goals or Federal awarding agency priorities.
• The Federal award may be terminated in whole or in part as follows:
  • Failure to comply with terms and conditions
  • If an award no longer effectuates the program goals or agency priorities
  • Bi-lateral termination
  • Upon sending written notification setting out the reasons, effective date and, if partial, the portion to be terminated
  • Pursuant to termination provisions included in the Federal award
Looking Forward

• HHS will update 45 CFR 75
• NIH will update Grants Policy Statement this fall (Oct/Nov)

• Got questions?
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