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
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

<table>
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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](https://www.congress.gov/bill/115th-congress/house-bill/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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