

Budget and Research Committee, 2014/15

Summary Report prepared by Gayle Bailey

The new Code of Federal Regulations (CFR) is called 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. It applies to new awards and incremental funding obligated on or after December 26, 2014. It basically consolidates all of the individual Office of Management and Budget circulars that apply to institutions of higher education, hospitals, other non-profit organizations, state and local governments, and Indian tribal governments into a single document. Most of the old A-21, A-110, and A-133 that have governed universities have been incorporated into the new CFR, so changes should be fairly seamless. Here are a few examples of the types of changes that will impact the proposal process and the administration of research awards.

Revisions affecting the proposal process:

Voluntary committed cost sharing is not expected except where otherwise required by statute, and it cannot be used as a factor during the merit review of applications or proposals. Only mandatory cost share or cost share specifically committed in the project budget must be included in the research base for computing indirect costs. (2 CFR 200.306)

Requirements for prior approval are increasing. Prior approval from the agency is required for change in scope or objective, change in key personnel, transfer of money budgeted for participant support, sub-awarding or contracting out of any work, or changes in the amount of cost share. Agencies now may waive the requirement for prior approval for 90-day pre-award costs, grantee initiated one-time 12-month extensions (with certain exceptions), and carry-forward of unobligated balances to subsequent periods of performance. (2 CFR 200.308)

Salaries of administrative and clerical staff should normally be paid for by overhead. Direct charging of admin/clerical expense to an award may be appropriate only when ALL of the following conditions are met: the admin/clerical services are integral to the project or activity, the individuals can be specifically identified with the project, such costs are explicitly included in the budget or have written prior approval of the awarding agency, and the costs are not also recovered as indirect (F&A) costs. (2 CFR 200.413(c))

Charges for work performed by faculty members on Federal awards are still allowable at the IBS rate. (2 CFR 200.430) Defining the Institutional Base Salary is being addressed by R&ED and Academic Affairs.

Entertainment costs remain unallowable, but the new regulation clarifies that any exceptions require a programmatic purpose as well as written prior approval from the Federal awarding agency. (2 CFR 200.438)

Materials and supplies now include the costs of computing devices. Title vests with NMT, but if there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value, the Federal government must be compensated in the same manner as for equipment.

Federal awards may now be charged before closeout for the costs of publication or sharing of research results even if the costs were not incurred during the period of performance. (2 CFR 200.461)

Projects awarded prior to December 26, 2014 will continue to be managed under the terms and conditions of the original awards unless formally modified via a separate modification or as part of the next incremental award.

Revisions affecting contract administration:

“Fixed amount” awards that are based on performance and results are to be offered if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost. (2 CFR 200.201) It adds a requirement for Federal awarding agencies to provide recipients with clear performance goals, indicators, and milestones. (2 CFR 200.301)

Agencies are to provide a standard format for announcements of intended priorities and funding opportunities, which includes a requirement to state all criteria used in evaluation of applications and how they will be used. (2 CFR 200.202, 203, 210)

Agency notices of funding opportunities must contain a standard set of data elements to be provided in all Federal notices of funding opportunities and Federal agencies are required to leave notices open for at least 30 days. (2 CFR 200.203, 210)

Federal agencies must consistently use OMB-approved standard information collection in their management of Federal awards and not add additional application requirements beyond OMB-approved data elements. (2 CFR 200.206)

The former requirement for the metric system of measurement is not included in the CFR. It is left up to the Federal agencies to inform recipients of appropriate national policy requirements.

Some major changes will be coming to procurement. The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts. It must avoid acquisition of unnecessary or duplicative items and enter into state and local intergovernmental agreements where appropriate for procurement or use of common or shared goods and services. It is encouraged to use Federal excess and surplus property. It must not be “restrictive of competition” by specifying only a “brand name” products. (2 CFR 200.317-326) This may have an impact on “sole source” documentation requirements. Vendors are now to be referred to as contractors. Implementation of the Procurement Standards is set for July 1, 2016.

Subrecipient monitoring is being strengthened considerably and this may have an impact on the decision to issue subawards. (2 CFR 200.330-332)

Federal agencies are now required to accept negotiated indirect cost rates unless an exception is required by statute or regulation, or approved by a Federal awarding agency head or delegate based on publicly documented justification. (2 CFR 200.414)

A new requirement for certifications (PARs) is that they include awareness of potential penalties under the False Claims Act (2 CFR 200.415) so the signature on the certification will carry even more weight and be more important in the audit process.