

RESEARCH COMPLIANCE NEWSLETTER

WINTER 2012

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NIH Final Rule on Conflict of Interest Issued

The Department of Health and Human Services (HHS) has issued updated financial conflict of interest (COI) regulations, which will take effect on August 24, 2012. The new regulations impose a variety of new requirements on researchers and universities, including:

- > PHS investigators are required to make an annual disclosure of all financial interests related to their professional responsibilities, regardless of whether the financial interest creates a conflict of interest related to research.
- > Reporting thresholds are lowered for various kinds of financial interests. In addition, some types of income, such as book publishing revenue, are now reportable.
- > All sponsored or reimbursed travel, regardless of value, must be disclosed.
- > Investigators must complete training on conflicts of interest at least every four years, and prior to commencing PHS funded research.
- > All interests that the institution determines gives rise to a conflict of interest must be reported to the sponsor and provided to the public upon request.
- > Administrative procedures are required for mitigation of conflicts, and retrospective review of completed research is required, when conflicts of interest are not disclosed in a timely manner.

USC will be issuing a new Conflict of Interest policy to meet these requirements on August 24, 2012. USC has also contracted with Click Commerce and VivanTech to develop an online conflict of interest disclosure system that will incorporate other required disclosures such as Relationships with Industry and Conflicts of Commitment.

If you have any questions about the new regulations or USC implementation, contact Benjamin Bell, bbell@ooc.usc.edu, or Daniel Shapiro, dshapiro@ooc.usc.edu, in the Office of Compliance, or call (213) 740-8258. The Department of Health and Human Services also has the new rule, FAQs and more information posted on the web (<http://grants.nih.gov/grants/policy/coi/>).

HHS and NSF OIGs Release 2012 Workplans

The HHS Office of Inspector General (OIG) has recently published the 2012 Work Plan (<http://oig.hhs.gov/reports-and-publications/workplan/index.asp#current>). The Work Plan highlights several reviews to be initiated or continued in the coming year, including:

- > **A-21 cost principles:** The HHS OIG will review university compliance with OMB Circular A-21, including appropriate allocation of direct and indirect costs on federal awards.
- > **Extra-Service Compensation:** The HHS OIG will review payments for extra compensation charged to federally sponsored grants, contracts, and cooperative agreements by education institutions to determine whether the payments were in accordance with Federal regulations.

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- > **Recharge Centers:** The HHS OIG will review whether recharge centers have a reasonable and consistent rate schedule that complies with applicable standards in A-21.
- > **Cost Sharing:** The HHS OIG will be initiating a new review of how universities meet their cost sharing obligations and whether claimed cost sharing costs are allowable under OMB Circular A-110.

The National Science Foundation (NSF) OIG has also recently published their 2012 Work Plan <http://nsf.gov/oig/FY12auditworkplan.pdf>. The NSF OIG is focused on two main areas:

- > **ARRA audits:** The NSF OIG will select awardees to audit their compliance with the Recovery Act, award terms and conditions, and federal administrative cost principles.
- > **Financial and Program Accountability:** The NSF OIG is transitioning to a new audit approach focused on data analytics where it will select an awardee to audit and review 100% of the transactions. The NSF OIG plan on using this new methodology to look for “possible unallowable or unreasonable expenditures, or funds spent for awards other than those for which they were provided.”

NSF Releases FAQs on Cost Sharing

The NSF released FAQs on their revised Cost Sharing Policy issued in January 2011 (http://www.nsf.gov/pubs/policydocs/csfaqs_jan11.pdf). As noted in the FAQs, under the revised policy, inclusion of voluntary committed cost sharing is prohibited. Voluntary committed cost sharing is not required by the sponsor but is committed, and becomes required, when the institution includes it in the proposal. Institutional resources necessary for the project should be described in a narrative in the Facilities, Equipment and Other Resources section of the proposal, but no quantifiable financial information should be included. NSF-required mandatory cost sharing can only be required if it is explicitly authorized by the NSF Director.

DHHS and NIH Salary Cap for 2012 Lowered

The NIH salary cap on extramural grants has been reduced from Executive Level I (\$199,700 in 2011) to Executive Level II (\$179,700), effective December 23, 2011. Key points include:

- > The new Executive II salary level is applicable to 2012 NIH funds awarded on or after December 23, 2011.
- > For 2012 awards issued on or before December 22, 2011 (competing and non-competing), the effective salary limitation remains at Executive Level I (\$199,700).
- > Awards made on or after December 23, 2011 should be charged at the new Executive Level II salary limitation (\$179,700).
- > For new proposal applications and corresponding budgets, the Executive Level II salary limitation (\$179,700) should be used.

As always, investigator effort can only be charged to an NIH award in proportion to the effort expended on the award. For example, if an investigator performed 10% effort for the month of January on an award subject to the cap, he or she could charge 10% of the monthly cap rate. The monthly cap rate would be \$179,700 divided by 12 months, or \$14,975. The allowable NIH salary charge for the month would be \$14,975 times 10% effort, or \$1,497.50. The difference between 10% of the investigator’s monthly salary and \$1,497.50 would have to be charged to department funds.

For additional information, please consult the NIH guidance available at: <http://grants.nih.gov/grants/guide/notice-files/NOT-OD-12-035.html>