



National Science Foundation • Office of Inspector General
2415 Eisenhower Avenue, Alexandria, Virginia 22314

MEMORANDUM

DATE: June 10, 2022

TO: Suzanne H. Plimpton
Reports Clearance Officer

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SUBJECT: Office of Inspector General Comments on the Draft *Proposal and Award Policies and Procedures Guide, NSF 23-1*

Attached are the consolidated comments of the National Science Foundation Office of Inspector General on the draft *Proposal and Award Policies and Procedures Guide* (PAPPG), NSF 23-1. Overall, we are happy with NSF's continued commitment to proper grant oversight and we hope you find our comments and suggestions useful.

If you have any questions or wish to discuss, please contact Ken Lish, Director, Contract Grant Audits, at 303-844-4738.

Attachment

Comment #	Section / Page Number	Language in PAPPG/Observations	Comments and Suggestions
1	Introduction, Sec. D.1., Definitions, pp. xiv-xv, (pdf pp. 15-16/182)		Suggest you alphabetize terms to facilitate searches for definitions.
2	Chapter I, Sec. F, pg. I-7 (PDF pg. 29/171)	"Proposers should then follow the written or verbal guidance provided by the cognizant NSF Program Officer."	We suggest that approval for exceptions to the deadline date policy only be provided in writing rather than also allowing for the option of verbal approval. Alternatively, we recommend that any verbal approvals must be followed by a written approval within five days to be valid. Many Program Officers are rotators through the Intergovernmental Personnel Act and may be gone by the time a question about the approval arises later in the award, or after an award's conclusion. Thus, it is in NSF's best interest to have the approval documented in writing. <i>[Note: Carried over from 2018 and 2019]</i>
3	Chapter II, Sec. D.2.f(i)(a), Senior Personnel Salaries & Wages Policy, p. II-14 (pdf p. 45/182)	"As a general policy, NSF limits the salary compensation requested in the proposal budget for senior personnel to no more than two months of their regular	Chapter II, Sec. D.2.h.(ii)(e) [Current and Pending Support] states, "Person-month information included in current and pending support may differ from the person-months

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		salary in any one year. ... If anticipated, any compensation for such personnel in excess of two months must be disclosed in the proposal budget, justified in the budget justification, and must be specifically approved by NSF in the award notice budget."	<p>requested on the budget for a given project. The information contained on the budget is separate and distinct from the information entered on current and pending support regarding how much time the individual is or is planning or has committed to spend on a project."</p> <p>This allows for a situation in which salaries for senior personnel are budgeted for no more than 2 months per year simply to comply with the budgeting limitation when the intent is for the individual(s) to spend more than 2 person-months per year on the project. In those cases where the budget reflects a lower senior personnel commitment than truly anticipated, suggest NSF require that the budget justification clearly state that the senior personnel salary budget does not reflect the anticipated salary for senior personnel and the actual salary charged to the award likely will be greater than budgeted.</p>

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4	Exhibit II-1, pg 91	“If the project (or any part of the project) now being submitted has been funded previously by a source other than NSF, provide the required information describing the last period of funding.”	We recommend NSF adopt similar language to NIH Form PHS 398/2590 Other Support, which requires explicit statements to address any potential overlap (scientific, budget, effort level) and how it would be resolved. <i>[Note: Carried over from 2019]</i>
5	Chapter II, Sec. C.2.i, pg. II-23 (PDF pgs. 55-56/171)	“Proposers should include an aggregated description of the internal and external resources (both physical and personnel) that the organization and its collaborators will provide to the project, should it be funded.”	We recommend instructing applicants to distinguish which facilities, equipment, and resources are coming from which project participants so it is clear what is coming from the grantee versus subawardees versus collaborators. These differences have implications regarding grantee’s rights and continued access to facilities necessary to carry out the project. Additionally, facilities, and which facilities are the grantee’s versus collaborators’, have been at issue in a number of our cases and requiring this information to be disclosed up front would increase transparency, decrease the likelihood for

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			misrepresentations, and increase our ability to pursue these cases. [Note: Carried over from 2018 and 2019]
6	Part II, pg. VI-1 (PDF pg. 100/171)	“When NSF Grant General Conditions or an award notice reference a particular section of the PAPPG, then that section becomes part of the award requirements through incorporation by reference.”	This sentence is confusing in light of the preceding sentences, which state, “Part II of the <i>NSF Proposal & Award Policies & Procedures Guide</i> sets forth NSF policies regarding the award, administration, and monitoring of grants and cooperative agreements. Coverage includes the NSF award process, from issuance and administration of an NSF award through closeout. Guidance is provided regarding other grant requirements or considerations that either are not universally applicable or do not follow the award cycle.” NSF General Grant Conditions require recipients to comply with NSF policies (NSF General Grant Conditions, Article 1.d.2), which are set forth in this document. The sentence in question could wrongly lead one to believe that only sections of the PAPPG specifically mentioned

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			in award terms and conditions need to be followed. We strongly suggest that this sentence be removed. <i>[Note: Carried over from 2018 and 2019]</i>
7	Chapter VI, Sec. C, pg. VI-2 (PDF pg. 101/171)	“When these conditions reference a particular PAPPG section, that section becomes part of the award requirements through incorporation by reference.”	Please see our suggestions outlined in comment number 6 <i>[Note: Carried over from 2018 and 2019]</i>
8	Chapter VII, Sec. B.1.a, pg. VII-2 (PDF pg.106/171)	“The objectives or scope of the project may not be changed without prior NSF approval.”	We suggest adopting similar guidance to the National Institutes of Health that defines change of scope and provides potential indicators. This guidance can be found in section 8.1.2.5 of the NIH Grants Policy Statement . Alternatively, we suggest adding a list of circumstances that could be considered a change of scope. For example, significant increase/decrease in a PI’s effort allocated to the project, a significant decrease in research opportunities for graduate and undergraduate students, and significant (> 25%) rebudgeting of costs among

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			budget categories, which indicates a material change in the research methodology. <i>[Note: Carried over from 2018 and 2019]</i>
9	Chapter VII, Sec. B.1.b, pg. VII-2 (PDF pg. 106/171)	“Significant changes in methods or procedures should be reported to appropriate grantee official(s). The PI also must notify NSF via use of NSF’s electronic systems.”	We suggest that NSF provide guidance to awardees to determine whether a proposed action is “significant” enough to warrant NSF notification. For instance, does an alteration to the number of students funded by the award constitute a significant change? Do equipment expenditures on a project that had no budgeted equipment because the awardee’s existing facilities and equipment were sufficient indicate a “significant change in methods or procedures?” <i>[Note: Carried over from 2018 and 2019]</i>
10	Chapter VII, Sec D.1., Annual Project Reports, p. VII-8 (pdf p. 121/182)	"NSF recommends that annual project reports be submitted no later than 30 days prior to the end of the current budget period. The report becomes overdue the day after the end of the current	As described in the PAPPG, the threshold for a report becoming overdue is reliant on both the submission of the report by the PI and the approval of the report by the PO. By only recommending (rather

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		budget period if it has not been submitted by the PI and approved by the cognizant NSF Program Officer."	than requiring) that the report be submitted 30 days in advance, NSF is allowing for circumstances where a PO could receive a report with insufficient review time prior to the report becoming overdue. We suggest that NSF establish firm timeframe requirements for submission by the PI to ensure POs have adequate time for review.
11	Chapter VII, Sec D.1., Annual Project Reports, p. VII-8 (pdf p. 121/182)	"The report becomes overdue the day after the 90 day period ends."	The addition of the prior paragraph makes this sentence unnecessary and consequently a bit confusing. It should be deleted, as the sentence directly above reads, "The report becomes overdue the day after the end of the current budget period if it has not been submitted by the PI and approved by the cognizant NSF Program Officer."
12	Chapter VII, Sec. D.5.d, pg. VII-9 (PDF pg. 113/171)	"Grants are administratively closed after receipt of the Final Project Report and Project Outcomes Report and after determination that any other administrative requirements in the grant have been met."	We recommend providing list of other administrative requirements that may exist. For example, final inventory report as described in (Chapter IX. D.4, or cost share report as described in Chapter VII.C.3).

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13	Chapter VIII, Sec. B.11., Unexpended Balance, p. VIII-2 (pdf p. 125/182)	"Unexpended Balance – means the sum of the unobligated and obligated balances. An unexpended balance is the result of awarded funds not being spent, or when the total expenditures for a project are less than the amount awarded. It can also be defined as the unspent portion of a budgeted amount, available for authorized future expenses during the award period."	Suggest the following: "Unexpended Balance – means the sum of the awarded funds not yet obligated by the recipient and obligated balances not yet paid by the recipient . An unexpended balance is the result of awarded funds not being spent, or when the total expenditures for a project are less than the amount awarded. It can also be defined as the unspent portion of a budgeted amount, available for authorized future expenses during the award period."
14	Chapter VIII, Sec. D.4.c.(i), Standard Treatment [of Program Income], p. VIII-6 (pdf p. 129/182)	"Program income earned during the project period should be expended prior to requesting reimbursement against the grant. In the event a recipient has unexpended program income remaining at the end of the grant, it must be remitted to NSF by crediting costs otherwise chargeable against the grant."	This seems to contradict the first sentence of the preceding paragraph, "Unless otherwise specified in the grant, program income received or accruing to the recipient during the period of the grant is to be retained by the recipient, added to the funds committed to the project by NSF, and thus used to further project objectives." This language implies that NSF intends for program income to follow the "Addition" option

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			<p>established in 2 CFR 200.307(e)(2). However, the language quoted in the prior column, specifically, "should be expended prior to requesting reimbursement against the grant," is in line with the "Deduction" option established in 2 CFR 200.307(e)(1).</p> <p>NSF should clarify whether program income should have no impact on federal reimbursements (i.e., Addition) or be expended before requesting reimbursement (i.e., Deduction).</p>
15	Chapter IX, § B	“By fostering transparency, disclosure and other practices that reflect the values of research integrity, NSF is helping to lead the way in ensuring taxpayer-funded research remains secure.”	<p>NSF should include an additional disclosure requirement that requires the awardee to notify NSF OIG of certain violations of criminal or civil law. For example, the Federal Acquisition Rule 52.203-13 requires a government contractor to timely disclose, in writing, to the agency Office of Inspector General whenever the contractor has credible evidence that a principal, employee, agent, or subcontractor of the contractor has committed a violation</p>

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			<p>of the Civil False Claims Act or a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity in connection with the award, performance, or closeout of a government contract or any related subcontract. The individual making the report must be an officer or manager empowered to speak for the company. A copy of the disclosure report must also be sent to the government contracting officer for the contract.</p> <p>The disclosure requirement continues until at least 3 years after final payment on the contract. Knowing failure on the part of a contractor to make such a required disclosure could be a cause for suspension and/or debarment until 3 years after final payment on the contract. FAR 9.406-2(b)(1)(vi) and 9.407-2(a)(8).</p>
16	Chapter II Sec. D.2.i(v) pg II-28 pdf pg 59		Text here mentions NSF compliance with Endangered Species Act (which is due to its role as a funder under provisions that affect only Federal

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			agencies, (i.e., Section 7 of the ESA, which affects Federal agencies but not directly recipients who are not Federal entities) but nowhere in this section or elsewhere in PAPPG does it mention how NSF ensures the recipient's compliance with Endangered Species Act (recipient needs a permit from U.S. Fish and Wildlife Service or National Marine Fisheries Service (NMFS) to do research on an Endangered Species or that affects one) or for recipients who need a directed research permit from NMFS to be in compliance with the Marine Mammal Protection Act for research on a marine mammal, or an incidental take permit for research on something else that affects marine mammals. For other Federal laws related to human subjects or Animal Welfare Act the PAPPG does discuss how NSF ensures compliance so there is an inconsistency.
17	Chapter II Sec. E.5.b(iv) pg II-35 pdf pg. 66	If the project lacks definite plans regarding use of human subjects, their data or their specimens,	Will the "flexible form of notice" be in eJacket (so OIG has direct access)? Also, removing the

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		<p>pursuant to 45 CFR §690.118, the proposer must check the box for "Human Subjects" on the Cover Sheet and enter “Pending” in the space provided for the approval date. If available at the time of proposal submission, the determination notice should be uploaded as an “Other Supplementary Document”. If the determination notice is not available, and, the decision is made to fund the proposal, a determination notice must be provided to the cognizant program prior to award.</p> <p>NSF will be flexible with the form that this notice takes, as long as it makes clear that no work with human subjects, including recruitment, will be conducted until full IRB approval is obtained. NSF will add conditions to the award that prevent any research involving human subjects from being</p>	<p>requirement for renewed documentation after an IRB determination expires [see removed language below] will make it more difficult to determine whether IRB approval is ongoing, but perhaps this is not necessary if the primary responsibility lies with the institution?</p> <p>Language removed from the previous PAPPG included:</p> <p><i>“Prior to the expiration date specified in the determination notice, the AOR is required to provide to the cognizant NSF Program Officer:</i></p> <ol style="list-style-type: none"> <i>1. verification that the project continues to lack definite plans for the involvement of human subjects, their data, or their specimens; or</i> <i>2. documentation that demonstrates that IRB approval has been obtained.</i> <p><i>The determination notice must indicate that no work with human subjects, including recruitment, will</i></p>

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		carried out, or otherwise restrict the drawing down of funds, until IRB approval has been obtained. The PI may conduct preliminary or conceptual work that does not involve human subjects while the protocol is being developed or is under review, consistent with organizational guidelines.	<i>be conducted until full IRB approval is obtained. NSF will add conditions to the grant that prevent any research involving human subjects from being carried out, or otherwise restrict the drawing down of funds, until IRB approval has been obtained.”</i>