

45 CFR 75 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Health and Human Services Awards

Frances Hodge

Public Health Analyst, Southern Services Branch
Division of Metropolitan HIV/AIDS Programs

Lieutenant Commander Monique Worrell

Public Health Analyst, Northeastern Division
Division of Metropolitan HIV/AIDS Programs

Jan Joyce

Senior Advisor for Grants Policy
HIV/AIDS Bureau, Office of the Associate Administrator

Disclosures

Presenter(s) has no financial interest to disclose.

This continuing education activity is managed and accredited by Professional Education Services Group in cooperation with HSRA and LRG. PESG, HSRA, LRG and all accrediting organization do not support or endorse any product or service mentioned in this activity.

PESG, HRSA, and LRG staff has no financial interest to disclose.

Learning Objectives

At the conclusion of this session, participants should be able to:

1. describe how 45 CFR 75 impacts their jurisdictions Ryan White grant
2. define and describe the HHS Uniform Guidance
3. identify changes in administrative requirements related to 45 CFR 75

45 CFR 75 – HHS Uniform Guidance

- Overview of 45 CFR 75
- Effective Dates
- **Changes of Note**
 - Vocabulary
 - Procurement
 - Indirect Costs
 - Subrecipient Monitoring
 - Cost Principles
 - Audit Requirements

HIV/AIDS Bureau Vision and Mission

Vision

Optimal HIV/AIDS care and treatment for all.

Mission

Provide leadership and resources to assure access to and retention in high quality, integrated care, and treatment services for vulnerable people living with HIV/AIDS and their families.

HIV/AIDS Bureau Priorities

- **National HIV/AIDS Strategy (NHAS) 2020/President's Emergency Plan for AIDS Relief (PEPFAR) 3.0** - Maximize HRSA HAB expertise and resources to operationalize NHAS 2020 and PEPFAR 3.0
- **Leadership** - Enhance and lead national and international HIV care and treatment through evidence-informed innovations, policy development, health workforce development, and program implementation
- **Partnerships** - Enhance and develop strategic domestic and international partnerships internally and externally
- **Integration** - Integrate HIV prevention, care, and treatment in an evolving healthcare environment
- **Data Utilization** - Use data from program reporting systems, surveillance, modeling, and other programs, as well as results from evaluation and special projects efforts to target, prioritize, and improve policies, programs, and service delivery
- **Operations** - Strengthen HAB administrative and programmatic processes through Bureau-wide knowledge management, innovation, and collaboration

45 CFR 75 - Overview

2 CFR 200 OMB Uniform Guidance: Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) was implemented by the Department of Health and Human Services (HHS) as 45 CFR Part 75 on December 26, 2014

45 CFR 75 - Overview

- **Administrative Requirements**
 - A-110/2 CFR 215 (45 CFR 74) Nonprofits, Institutions of Higher Education, Hospitals
 - A-102 (45 CFR 92) State, Local and Tribal Governments
- **Cost Principles**
 - A-122 Nonprofits (2 CFR 230)
 - A-21 Institutions of Higher Education (2 CFR 220)
 - A-87 State, Local, Tribal Governments (2 CFR 225)
- **Single Audit**
 - A-133 – Single Audit
 - A-50 – Single Audit Follow-up
- **A-89 – Catalog of Federal Domestic Assistance**

45 CFR 75 - Overview

Compliance Requirements At A Glance			
Grantee Type	Admin Requirements	Cost Principles	Audit Requirements
State & Local Governments	45 CFR Part 92 (A-102)	2 CFR Part 225 (A-87)	A-133 (PDF)
College & Universities	45 CFR Part 74 (A-110)	2 CFR Part 220 (A-21)	
Non-Profits		2 CFR Part 230 (A-122)	
Hospitals		45 CFR Part 74, Appx. E	
For-Profits		48 CFR Subpart 31.2 (FAR 31.2)	
Foreign	45 CFR Part 74	As stated above for grantee type	HHS GPS (Same as) 45 CFR Part 74.26)

45 CFR 75 - Overview

Compliance Requirements at a Glance			
Recipient Type	Administrative Requirements	Cost Principles	Audit Requirements
State, Local, & Tribal Governments	45 CFR 75	45 CFR 75; Subpart E	45 CFR 75; Subpart F
Colleges & Universities			
Non-Profits		As stated above for each awardee type	
Hospitals			
For-Profits			
Foreign			45 CFR Part 75 except where the HHS awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statutes or regulations of a foreign government.

45 CFR 75 - Overview

45 CFR 75 GOALS

- Streamline guidance for Federal awards to ease administrative burden
- Strengthen oversight over Federal funds to reduce risks of waste, fraud, and abuse
- Increase efficiency and effectiveness of Federal awards

45 CFR 75 - Overview

Subparts

- **A** – Acronyms and Definition
- **B** – General Provisions
- **C** – Pre-Federal Award Requirements and Contents of Federal Awards
- **D** – Post Federal Award Requirements
- **E** – Cost Principles
- **F** – Audit Requirements

45 CFR 75 – Effective Dates

- **Applicable to all HAB grants and cooperative agreement issued on or after December 26, 2014**
 - New “Type 1” awards
 - Competing Continuation “Type 2” awards
 - Non-competing Continuations “Type 5” awards
 - Supplements
 - Carry over funds re-obligated after 12/26/14

45 CFR 75 – Effective Dates

For nonprofits and institutions of higher education, there is a two full fiscal-year grace period for the implementation of the new provisions in the **procurement standards**

45 CFR 75 – Effective Dates

- **Indirect cost rates** will remain in place until they are due to be re-negotiated
 - Adjustments may be required if unallowable costs were included (see §75.411)
- Subpart F, **Audit requirements**, are applicable to fiscal years beginning on or after December 26, 2014

45 CFR 75 – Effective Dates

- The effective date for **subawards** is the same as the effective date of the Federal award from which the subaward is made
 - The requirements for a subaward, no matter when made, flow from the requirements of the original HAB award from HRSA

45 CFR 75 – Vocabulary

- **Federal award** instead of grant or cooperative agreement
- **FAIN** – Federal Award Identification Number instead of grant number
- **Recipient** instead of grantee
- **Subrecipient** instead of subgrantee or subcontractor
- **Contractor** – no longer using the term Vendor
- **Expenditure Report** – the SF-425 Federal Financial Report (not to be confused with the RWHAP Expenditure Report)

45 CFR 75 – Vocabulary

Subrecipient vs Contractor

- **Subrecipient** carries out programmatic activities to meet the goals and objectives of the funded project
- **Contractor** provides goods and services within normal business operations for the benefit of the recipient (ancillary to the operation of the program)

45 CFR 75 – Changes of Note Subpart C Pre-Award

Risk Assessment Framework

- **Pre-award financial risk assessment**
 - Financial stability
 - Prior single audits (A-133)
- **Adequacy of management systems**
- **History of performance**
- **Capacity to meet award requirements**

45 CFR 75 – Changes of Note

Subpart D Post Award Requirements

Performance Management

§75.301 requires recipients to relate financial data to performance accomplishments and provides more robust guidance to measure performance in a way that will help HHS improve program outcomes, share lessons learned, and spread the adoption of promising practices. HRSA/HAB **must**

- **Align metrics to HRSA strategic goals and government-wide priorities**
 - HHS Common HIV Core Measures: <https://www.aids.gov/pdf/hhs-common-hiv-indicators.pdf>
 - HAB HIV Performance Measures Portfolio: <http://hab.hrsa.gov/deliverhivaidscares/habperformmeasures.html>
- **Identify performance measures in the Funding Opportunity Announcement (FOA)**
- **Identify performance goals in the Notice of Award (NOA)**

45 CFR 75 – Changes of Note

Subpart D Post-Award

Internal Controls §75.303

- Requirements from Part 6 of the A-133 Compliance Supplement
- **Should be in compliance with guidance in “Standards for Internal Control in the Federal Government,” issued by the Comptroller General of the United States aka the “Internal Control Integrated Framework” or the Green Book**
 - ✓ Operations – effectiveness and efficiency of operations
 - ✓ Reporting –reliability of reporting for internal/external use
 - ✓ Compliance-compliance with applicable laws and regs

45 CFR 75 – Changes of Note

Subpart D Post-Award

Internal Controls (cont.)

- For all Federal funds, identify CFDA and FAIN in accounts
- Reasonable measures to protect personally identifiable information

Property Standards §75.316 - .323

- Equipment / Supplies thresholds
 - \$5,000
 - **Useful life**
- **Must include the federal award # on property records**
- Property trust relationship

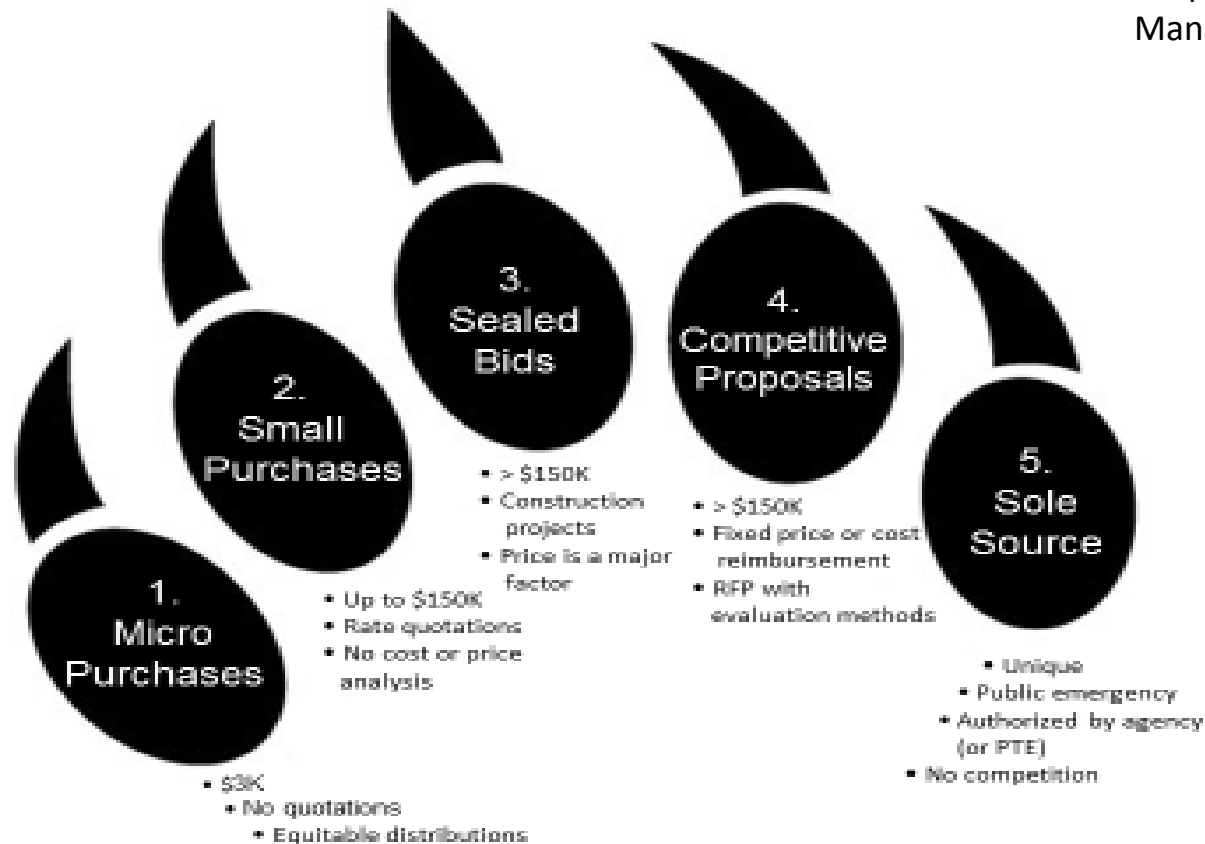
45 CFR 75 – Changes of Note

Subpart D Post-Award

- **45 CFR §75.305 Payment remains largely the same.**
 - (1) Recipients and subrecipients must be paid in advance (unless they are high risk)
 - (2)(ii) They may request payments as often as they like (if electronic payment systems are used—if not, monthly)
 - (5) To the extent that it is available, program income and rebates generated under the award must be disbursed prior to requesting Federal funds
- Language was added to clarify that this requirement is applicable to all entity types, including State government

45 CFR 75 – Changes of Note Procurement §75.326 – 75.335

Graphic: Office of
Management and Budget



45 CFR 75 – Changes of Note Procurement §75.326 – 75.335

Graphic: Office of
Management and Budget



45 CFR 75 – Changes of Note

Subrecipient Monitoring §75.351 - .353

- Included from the A-133 – not new requirements
 - Subrecipient and contractor determinations §75.351
 - Requirement for pass-through entities §75.352
 - Risk-based monitoring of subrecipients §75.352(b) and (e)
 - Also see Appendix II to Part 75 – Contract Provisions for Non Federal Entity Contracts Under Federal Awards
- A recipient's failure to monitor their subrecipients is the #2 Single Audit finding

45 CFR 75 – Changes of Note

Indirect Costs

- Governmental departments or agency units receiving more than \$35M in federal funds **MUST** have a federally negotiated indirect cost rate (NICRA)
- Other recipients or subrecipients that do not have a federal NICRA may do one of the following:
 - ✓ **Direct cost all expenses**, or
 - ✓ Recipients may negotiate a rate with the Federal government; subrecipients may negotiate a rate with the recipient consistent with the requirements outlined in 45 CFR part 75, or

45 CFR 75 – Changes of Note

Indirect Costs

- ✓ Per 45 CFR §75.414(f), any non-Federal entity that has never received a Federal negotiated indirect cost rate may **charge a de minimis rate of 10% of modified total direct costs (MTDC)**

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. (See [45 CFR §75.2 Definitions](#).)

45 CFR 75 – Changes of Note

Indirect Costs

- 45 CFR 75.414 (c) requires Federal awarding agencies to honor a federal NICRA unless statute limits the amount of indirect costs that may be charged to an award
- RWHAP Parts A, B, C, and D legislative limits on administrative costs trump negotiated indirect cost rates
 - See [PCN 15-01](#), FAQs, and related [presentations](#)

45 CFR 75 – Changes of Note

Indirect Costs under Training Programs

8 percent cap -

- Even if an organization has a federal NICRA—
 - Under training awards, indirect costs will be reimbursed at a fixed rate of 8 percent of MTDC
 - Limit is applicable to all entity types

45 CFR 75 – Changes of Note

Indirect Costs

- Per 45 CFR §75.413(c), recipients may **direct charge admin staff, if**
 - Necessary and allocable to the project
 - Not recovered as indirect costs
- Recipients may request a **one-time extension of current indirect cost rate**
 - For up to four years
 - If approved, cannot request a rate review until extension period ends

45 CFR 75 – States, Local Governments, and Indian Tribes

Special Considerations for States, Local Governments and Indian Tribes

- §75.416 Cost allocation plans and indirect cost proposals
- §75.417 Interagency service

45 CFR 75 – Changes of Note

Subpart E Cost Principles

- Advertising and public relations allowable if “program outreach”
- Bid and proposal costs allowable as indirect (direct – unallowable)
- Compensation/fringe allows family related leave, prohibits excessive severance packages
- Conferences allow costs of identifying locally available dependent care (cost of recipient providing dependent care – unallowable)

45 CFR 75 – Changes of Note

Subpart E Cost Principles

- Lobbying provides examples of allowable and unallowable costs
- Collection of improper payments – allowable
- Rental costs for home offices are unallowable
- Travel costs for dependents are unallowable
- Minor alterations and renovations (A&R) allowable as indirect

45 CFR 75 – Changes of Note

Subpart E Cost Principles

- **45 CFR §75.430 Compensation—personal services (d)(2)**

The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

Salary rate limitation per Consolidated Appropriations Act, 2016, Division H, §202, (P.L. 114-113)--\$185,100

45 CFR 75 – Changes of Note

Subpart E Cost Principles

- Shared responsibility payments

any payments or assessments imposed on an individual or individuals pursuant to 26 U.S.C. 5000A(b) as a result of any failure to maintain minimum essential coverage as required by 26 U.S.C. 5000A(a), are unallowable. See HAB Policy Notice 13–04,

<http://hab.hrsa.gov/manageyourgrant/pinspals/pcn1304privateinsurance.pdf>

45 CFR 75 – Changes of Note Subpart F Audit Requirements

- The threshold for single audits raised from \$500,000 to **\$750,000**
- Federal agencies are **prohibited from granting an extension to the single audit deadline**
- Threshold for questioned costs – raised from \$10,000 to **\$25,000**

45 CFR 75 – Resources

- [45 CFR 75](#)
- [Council on Financial Assistance Reform FAQs re. 2 CFR 200](#)
- [Preamble and original Federal Register Notice \(12/26/13\) for Uniform Guidance](#)
- [Federal Register Notice \(12/19/14\) Final Rule Implementing 45 CFR 75](#)

45 CFR 75 - Discussion

Contact Information

For additional questions, please email:
AskHAB@hrsa.gov or contact your HAB
Project Officer



Obtaining CME/CE Credit

If you would like to receive continuing education credit for this activity, please visit:

<http://ryanwhite.cds.pesgce.com>