

Notice of Legislative Mandates in Effect for FY 2008

Notice Number: NOT-OD-08-041

Key Dates

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The Consolidated Appropriations Act, 2008 (P.L. 110-161) provides funding to NIH for the remainder of FY2008. The intent of this Notice is to provide information on the following statutory provisions that limit the use of funds on National Institutes of Health (NIH) grant, cooperative agreement, and contract awards for FY2008. The Notice of Legislative Mandates for FY 2007 was published on February 22, 2007, NIH Guide Notice [NOT-OD-07-050](#).

New legislative mandates for FY 2008:

(1) NIH Public Access Requirement (Section 218)

"The Director of the National Institutes of Health shall require that all investigators funded by the NIH submit or have submitted for them to the National Library of Medicine's PubMed Central an electronic version of their final, peer-reviewed manuscripts upon acceptance for publication, to be made publicly available no later than 12 months after the official date of publication: *Provided*, that the NIH shall implement the policy in a manner consistent with copyright law."

Further information on the implementation of NIH's Public Access Requirement is available in NIH Guide Notice [NOT-OD-08-033](#) published on January 11, 2008.

(2) Dissemination of False or Deliberately Misleading Scientific Information (Section 517b).

"None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading."

While this mandate has not been included in past appropriations acts, it is similar to existing requirements concerning research integrity, fraud and false claims, and as such, NIH does not expect this new requirement to significantly impact the business practices at most institutions. Grantees are advised to review their implementation of the PHS Policies on Research Misconduct contained in 42 CFR Part 93 and the Civil False Claims Act (31 U.S.C. 3729(a)), Criminal False Claims Act (18 U.S.C. 287 and 1001), and Program Fraud and Civil Remedies Act (31 U.S.C. 3801 et seq.) requirements highlighted in Part I of the NIH Grants Policy Statement.

(3) Restriction on Employment of Unauthorized Alien Workers (Section 520)

"None of the funds in this Act may be used to employ workers described in section 274A(h)(3) of the Immigration and Nationality Act."

While this mandate has not been included in past appropriations acts, it is similar to existing requirements contained in the Immigration and Nationality Act (18 U.S.C. 1324a), and as such, NIH does not expect this new requirement to significantly impact the business practices at most institutions. Grantees are advised to review their current hiring and employment practices to ensure compliance..

FY 2007 Legislative Mandates that remain in effect are as follows:

(1) Continued Salary Limitation (Section 203)

(2) Anti-Lobbying (Section 503)

(3) Restriction on Distribution of Sterile Needles (Section 505)

(4) Acknowledgment of Federal Funding (Section 506)

(5) Restriction on Abortions (Section 507)

(6) Ban on Funding Human Embryo Research (Section 509)

(7) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances (Section 510)

(1) Continued Salary Limitation (Section 204)

"None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I." Executive Level I of the Federal Executive Pay

Scale effective January 1 through December 31, 2007 was \$186,600. Effective January 1, 2008, this amount increased to \$191,300. Applications and proposals with categorical direct cost budgets reflecting direct salaries for individuals in excess of Executive Level I per year will be adjusted in accordance with the legislative salary limitation. Further information on the NIH Salary Limitation can be found in NIH Guide Notice [NOT-OD-08-035](#) published on January 15, 2008.

(2) Anti-Lobbying (Section 503)

"(a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself. (b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature. "

(3) Restriction on Distribution of Sterile Needles (Section 505)

"Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug."

(4) Acknowledgment of Federal Funding (Section 506)

"When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state:

(1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources."

(5) Restriction on Abortions (Section 507)

(a) None of the funds appropriated under this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(6) Ban on Funding of Human Embryo Research (Section 509)

(a) None of the funds made available in this Act may be used for: (1) the creation of a human embryo or embryos for research purposes; or (2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)). (b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

(7) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances (Section 510)

"(a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C.812) except for normal and recognized executive-congressional communications. (b)The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage."

Inquiries

Inquiries Here For more information on grants policy, please visit: <http://grants.nih.gov/grants/policy/policy.htm>. For more information on contracts policy, please visit: <http://ocm.od.nih.gov/contracts/contract.htm>.

If additional questions remain, after visiting the posted websites, please contact the awarding grants or contracts management office in the appropriate NIH Institutes and Centers.

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