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Guidance on Federal Awardee Performance and Integrity Information System (FAPIS)

The federal government has a database that it uses to evaluate prospective contractors competing for federal contracts and now this same database is going to be used by the federal government to look up potential grant recipients, including our organization (CDU). In addition, we can choose to utilize this system to look up our Subgrantees.

On July 22, 2015, the Office of Management and Budget (OMB) released final guidance to federal agencies to implement Section 872 of the Duncan Hunter National Defense Authorization Act ("Section 872") in relation to grant awards. Section 872 requires the establishment of a system that includes government-wide data containing specified information related to the integrity and performance of entities awarded federal grants and contracts. This system is called the Federal Awardee Performance and Integrity Information System (FAPIS).

Federal awarding agencies will now need to consider the information in FAPIS about a non-federal entity before awarding a grant to that non-federal entity. Beginning January 1, 2016, for grant awards over \$150,000 (an amount based on the simplified acquisition threshold), federal agencies will be required to review the FAPIS database as part of their pre-award risk assessment. From this, agency officials will determine if a potential grant awardee is "qualified" or "not qualified" to receive an award. FAPIS does not replace the System of Award Management (SAM), although at some point there is a stated intention to migrate FAPIS to SAM.

The final guidance includes requirements for both federal awarding agencies and certain recipients to report certain information that will be contained in the database. The major elements of the guidance are as follows:

- Federal awarding agencies must report information about any termination of an award due to material failure to comply with the award terms and conditions, any administrative agreement with a non-federal entity to resolve a suspension or debarment proceeding, and any finding that a non-federal entity is not qualified to receive a given award, if the finding is based on criteria related to the non-federal entity's integrity or prior performance under federal awards.
- A recipient with a federal contract, grant, or cooperative agreement award with a cumulative total value over \$10,000,000 is required to provide certain information about civil, criminal, and administrative proceedings that reached final disposition within the most recent five-year period and that were connected with the award or performance of a federal award.
- Federal awarding agencies, prior to making an award to a non-federal entity must determine whether that non-federal entity is qualified to receive that particular award.

To this effect, 2 CFR 200 has been amended in several places, including:

- 2 CFR 200.205 has been revised to require federal agencies to review FAPIS as part of the pre-award risk assessment before making an award in excess of the simplified acquisition threshold.

- 2 CFR 200.212 now details the reporting requirements for agencies when a grant applicant has been determined to be “not qualified” for a federal award.
- 2 CFR 200.213 contains information regarding suspension and debarment which was previously found at 2 CFR 200.212.
- 2 CFR 200.339 and 2 CFR 200.340 provide information regarding an agency’s responsibility to the termination of an award to FAPIIS.
- Appendix XII has been added to 2 CFR 200 to explain the award term and condition for recipient reporting on integrity and performance matters.

Non-federal entities might wonder how these changes will impact them, particularly if they aren’t subject to the self-reporting requirement mentioned above. First, it might be beneficial for all entities applying for grants to be aware of the information that FAPIIS has on their organization. If a federal awarding agency does not make an award to a non-federal entity because the non-federal entity does not meet the minimum qualification standards, the federal awarding agency must, under certain conditions, report that determination to FAPIIS. This information is kept in FAPIIS for a period of five years. Additionally, the federal agency must notify the non-federal entity that a “not qualified” determination was made and that the information was provided for the FAPIIS database.

Once the information is included in FAPIIS, what can a non-federal entity do? A non-federal entity has the opportunity to review information included in FAPIIS about its entity and comment on any information included in the database. Federal agencies will consider the comments in determining whether a non-federal entity is “qualified” for a future award. If at any point a federal agency determines the information included in FAPIIS to be erroneous, it **MUST** correct the information within three business days.

Second, though FAPIIS was established to aid federal agencies in making awards, non-federal entities could leverage the information included in this database to assist with their subrecipient risk assessment and subrecipient monitoring activities. The grant reforms spell out explicit pass-through entity requirements for subrecipients both during the pre-award process as well as during the post-award period. Though non-federal entities are **NOT** required to review FAPIIS prior to issuing a subaward, they might want to consider reviewing the database for a potential subrecipient prior to issuing the subaward. Additionally non-federal entities could continue to review the database as a part of their ongoing subrecipient risk assessment and monitoring procedures. As with any subrecipient risk assessment or subrecipient monitoring activities, if we choose FAPIIS, we will need to document our review and the information you found.