



Grants Policy Bulletin

Legislative Mandates in Grants Management for FY 2019

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Related Bulletins: Replaces 2018-04

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Purpose

The purpose of this Policy Bulletin is to clarify the requirements mandated by the Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Division B, Pub. L. 115-245, signed into law on September 28, 2018, which provides funding to the Health Resources and Services Administration (HRSA) for the fiscal year ending September 30, 2019. The intent of this policy bulletin is to provide information on the following statutory provisions that limit the use of funds on HRSA grants and cooperative agreements for FY 2019. Legislative mandates remain in effect until a new appropriation bill is passed setting a new list of requirements. There is one requirement mandated by the FY 2018 Consolidated Appropriations Act 2018 (Public Law 115-141), signed into law on March 23, 2018, that is currently under a continuing resolution. The FY 2019 list of legislative mandates for HRSA award recipients is the same as the FY 2018 list.

Implementation

FY 2019 Legislative Mandates are as follows:

Division B, Title II

- (1) Salary Limitation (Section 202)
- (2) Gun Control (Section 210)

Division B, Title V

- (3) Anti-Lobbying (Section 503)
- (4) Acknowledgment of Federal Funding (Section 505)
- (5) Restriction on Abortions (Section 506)
- (6) Exceptions to Restriction on Abortions (Section 507)
- (7) Ban on Funding Human Embryo Research (Section 508)
- (8) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances (Section 509)
- (9) Restriction of Pornography on Computer Networks (Section 520)
- (10) Restriction on Funding ACORN (Section 521)
- (11) Restriction on Distribution of Sterile Needles (Section 529)

Division E, Title VII¹

(12) Confidentiality Agreements (Section 743)

Details:

Division B, Title II:

(1) Salary Limitation (Section 202)

"None of the funds appropriated in this title 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 II."

The Executive Level II salary is currently set at \$189,600; however, we anticipate this changing January 1, 2019.

(2) Gun Control (Section 210)

"None of the funds made available in this title may be used, in whole or in part, to advocate or promote gun control."

Division B, Title V

(3) Anti-Lobbying (Section 503)

"(a) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 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, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body, except in presentation to the Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government, except in presentation to the executive branch of any State or local government itself.

(b) No part of any appropriation contained in this Act or transferred pursuant to section 4002 of Public Law 111–148 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 the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.

(c) The prohibitions in subsections (a) and (b) shall include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control."

(4) Acknowledgment of Federal Funding (Section 505)

"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

¹ FY 2018 Consolidated Appropriations Act 2018 (Public Law 115-141), signed into law on March 23, 2018.

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 506)

"(a) None of the funds appropriated in 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.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement."

(6) Exceptions to Restriction on Abortions (Section 507)

"(a) The limitations established in the preceding section shall not apply to an abortion –

- (1) if the pregnancy is the result of an act of rape or incest; or
- (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's or locality's contribution of Medicaid matching funds).

(d)

- (1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.
- (2) In this subsection, the term "health care entity" includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan."

(7) Ban on Funding of Human Embryo Research (Section 508)

"(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.

(8) Limitation on Use of Funds for Promotion of Legalization of Controlled Substances (Section 509)

“(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 under section 202 of the Controlled Substances Act 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.”

(9) Restriction of Pornography on Computer Networks (Section 520)

“(a) None of the funds made available in this Act may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

(b) Nothing in subsection (a) shall limit the use of funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.”

(10) Restrictions on Funding ACORN (Section 521)

“None of the funds made available under this or any other Act, or any prior Appropriations Act, may be provided to the Association of Community Organizations for Reform Now (ACORN), or any of its affiliates, subsidiaries, allied organizations, or successors.”

(11) Restriction on Distribution of Sterile Needles (Section 529)

“Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug: Provided, That such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant State or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the State or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with State and local law.”

The following Legislative Mandate is part of FY 2018 Consolidated Appropriations Act 2018 (Public Law 115-141), signed into law on March 23, 2018, and is part of a Continuing

Appropriation that is subject to change following the enactment of future FY19 appropriations.

Division E Title VII

(11) Confidentiality Agreements (Section 743)

(a) None of the funds appropriated or otherwise made available by this or any other Act may be available for a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The limitation in subsection (a) shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

Resources

- Department of Defense and Labor, Health and Human Services, and Education Appropriations Act 2019 <https://www.congress.gov/bill/115th-congress/house-bill/6157/text>
- Consolidated Appropriations Act, 2018 <https://www.congress.gov/bill/115th-congress/house-bill/1625>

Inquiries

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