

Education

Five Key Federal Grants Compliance Tips as COVID-19 Comes More Under Control



By: [David B. Robbins](#), [David W. DeBruin](#), [Rebecca Fate](#), [Emily A. Merrifield](#), and [Andrew J. Plague](#)

Colleges and universities have grappled with many challenging issues throughout the COVID-19 crisis, but federally sponsored research has generally provided stable and (comparatively) uncomplicated revenue- and work-streams through this period. In some cases, federal grants were easier to obtain and comply with as additional funding came available through the CARES Act and federal guidance reduced certain compliance requirements. Ongoing compliance efforts may have suffered as a result. As the economy creeps back toward normal, compliance takes on added importance once again.

Colleges and universities are well advised to consider these compliance steps as part of their reopening plans in order to reduce the risk of, among other things, negative single audit findings, delays or reductions in award funding, and potential referral for enforcement action under, for example, the False Claims Act.

1. **Single Audit Impacts:** Consider the impact of any economic stimulus funds received or changes in awards upon your next single audit. Seek guidance from support professionals (*e.g.*, accounting, consulting, legal) if needed to understand changes. A small amount of preparation can go a long way to ensuring a smooth single audit experience.
2. **Award Work Impacts:** COVID-19 impacted place, pace, price, and productivity of performance, among many other things. Offices of sponsored research and/or relevant legal and compliance organizations may wish to collect information about COVID-19 impacts on ongoing federal grants. For example, is the project still on time and on budget? Was any work delayed? Do steps need to be made up now that people can work in physical proximity more easily? This information may help assess whether the awards need to be re-baselined or expectations altered.
3. **Notifications:** After assessing whether COVID-19 impacted ongoing awards—or may impact the performance of pending applications—it may be necessary to update award officials. These updates may be required by the terms of the award (*e.g.*, notifications of delays) or be required to avoid falsely certifying the status of the project. Program directors, principal investigators, or others with a vested interest in the progress of the research can be helpful sources of information about these requirements, but verification by grants management professionals or legal counsel can be helpful to understand whether notice is required and to make sure any notice is accurate and appropriate.
4. **Paperwork Review:** Remote work associated with COVID-19 may have disrupted the normal paperwork and filing requirements associated with federal grant compliance. While those impacts are understandable in the moment, over time, the memory of disruption will fade. Auditors and enforcement officials will enforce documentation requirements and may not take “COVID-19 impact” as an excuse for a lack of documentation. Rather than risk having funds questioned or costs impacted, colleges and universities may wish to consider reviewing federally sponsored research programs for recordkeeping compliance. It is generally easier to address gaps in documentation promptly. This effort may save time and money later.

5. **IP/Commercialization Impacts:** Federally funded research carries intellectual property commercialization requirements in order for colleges and universities to maintain IP protections for innovations discovered during federally funded research (e.g., Bayh-Dole Act considerations). Colleges and universities may wish to review COVID-19 impacts on their obligations to timely disclose innovations, protect them, provide licenses to the government, and to otherwise commercialize the innovations. While government entities may be unlikely to exercise their march-in rights in the near term, undocumented and unsupported delays in fulfilling awardee obligations increase risk. If unusual or excessive delay occurred because of COVID-19, additional disclosures to the awarding agency may be helpful.

Colleges and universities are to be commended for managing the many, extremely difficult COVID-19-related twists and turns. Given the scope of other issues, it may be easy for ongoing federal award compliance to fall behind other priorities. However, recent enforcement cases against universities have shown that the government (and, in certain cases, determined plaintiffs) will bring False Claims Act cases to punish perceived noncompliance. These steps outlined above can assist colleges and universities in avoiding potentially costly missteps.

Jenner & Block lawyers stand ready to discuss any of these steps and other related issues as needed.

Conscious of the human, operational and financial strain that coronavirus is placing on businesses and organizations worldwide, Jenner & Block has assembled a multi-disciplinary Task Force to support clients as they navigate the legal and strategic challenges of the COVID-19 / Coronavirus situation.

For additional information and materials, please visit our COVID-19 / Coronavirus Resource Center.

[Click here to visit our COVID-19 / Coronavirus Resource Center](#)



Contact Us



David B. Robbins

drobbs@jenner.com | [Download V-Card](#)



David W. DeBruin

ddebruin@jenner.com | [Download V-Card](#)



Rebecca Fate

rfate@jenner.com | [Download V-Card](#)



Emily A. Merrifield

emerrifield@jenner.com | [Download V-Card](#)



Andrew J. Plague

aplague@jenner.com | [Download V-Card](#)

Meet Our Team

Practice Leaders

Ishan K. Bhabha

Co-chair

ibhabha@jenner.com

[Download V-Card](#)

Terri L. Mascherin

Co-chair

tmascherin@jenner.com

[Download V-Card](#)

© 2021 Jenner & Block LLP. **Attorney Advertising.** Jenner & Block is an Illinois Limited Liability Partnership including professional corporations. This publication is not intended to provide legal advice but to provide information on legal matters and firm news of interest to our clients and colleagues. Readers should seek specific legal advice before taking any action with respect to matters mentioned in this publication. The attorney responsible for this publication is Brent E. Kidwell, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654-3456. Prior results do not guarantee a similar outcome.