

Rights in Data Guidance for OAH Grantees

August 2012

A standard term included in the Notice of Award for OAH Teenage Pregnancy Prevention grantees states that “OAH plans to exercise the intangible property rights to copyrightable works and data afforded by 45CFR § 74.36.”

Under 45 CFR §74.36(a), OAH reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use copyrightable works developed (or for which ownership was purchased) under this cooperative agreement for Federal purposes, and to authorize others to do so. Under 45 CFR § 74.36(c), the Federal Government has the right to obtain, reproduce, publish, or otherwise use data first produced under this cooperative agreement, and to authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

These rights in such copyrightable works and data are further explained in the HHS Grants Policy Statement (January 1, 2007), page II-69. Relevant text from the HHS Grants Policy Statement is quoted below. The complete HHS Grants Policy Statement is available at <http://www.hhs.gov/asfr/ogapa/grantinformation/hhsgps107.pdf>.

Rights in Data

In general, recipients own the rights in data resulting from a grant-supported project or program. However, the NoA may indicate alternative rights, e.g., under a cooperative agreement or based on specific programmatic considerations as stated in the applicable program announcement or solicitation. Except as otherwise provided in the NoA, any publications, data,¹⁸ or other copyrightable works developed under an HHS grant may be copyrighted without OPDIV prior approval. Rights in data also extend to students, fellows, or trainees under awards whose primary purpose is educational, with the authors free to copyright works without OPDIV approval. In all cases, whether HHS funded all or part of the project or program resulting in the data, the Federal government must be given a royalty-free, nonexclusive, and irrevocable license for the Federal government to reproduce, publish, or otherwise use the material and to authorize others to do so for Federal purposes, e.g., to make it available in government-sponsored databases for use by other researchers. The specific scope of OPDIV rights with respect to a particular grant-supported effort will be addressed in the NoA. Data developed by a subrecipient also are subject to this policy.

¹⁸ For this purpose, “data” means recorded information, regardless of the form or media on which it may be recorded, and includes writings, films, sound recordings, pictorial reproductions, drawings, designs or other graphic representations, procedural manuals, forms, diagrams, work flow charts, equipment descriptions, data files, data processing or computer programs (software), statistical records, and other research data.