OSP Forum:
The New Federal Research Terms and Conditions
Prior Approval Matrix

August 7, 2017
Agenda

• Recent changes in Federal terms
• OSP resources and how to use them
• Similarities & differences among federal agencies in standard federal terms
• Questions and examples
• Summary
Recent Changes in Federal Terms

• Dec 2014 the Federal Government issued **Uniform Guidance (UG)**

• Goal: Standardize administrative, cost and audit requirements for Federal awards

• Applies to all new Federal awards issued on or after December 26, 2014

*Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)*
Recent Changes in Federal Terms

- March 2017: Federal Agencies issued final revised Research Terms and Conditions (RTC)

- Overlay to UG that describes how each agency will implement UG requirements
  - Provides each agency’s variations on UG, where they exist
Research Terms and Conditions (RTCs)

Apply to awards issued on or after:

• **April 3, 2017** for:
  – **NIH**: new assistance awards
  – **NSF**: new grants and funding increments* Doesn’t apply to cooperative agreements or fellowships
  – **DoE**: new assistance awards

• **June 1, 2017** for:
  – **USDA**: all new research-related awards and increments

*Where noted, increments will incorporate new terms, replacing old terms
Research Terms and Conditions (RTCs)

Apply to awards issued on or after

- **Oct 1, 2017** for:
  - **NASA**: all new awards
  - **DoCommerce**: all new assistance awards and increments
  - **FAA**: all new awards
  - **DHS**: all new assistance awards

- **Dec 2017** (anticipated) for:
  - **EPA**: all new assistance awards. Excludes P3 program awards
OSP Resources: Summary pages of terms to help simplify Federal Requirements

Sponsor Terms by Term Type

- Equipment and Property Terms by Sponsor
- Period of Performance (POP) Extension Terms by Sponsor
- Personnel Changes Terms by Sponsor
- Publication Terms by Sponsor
- Rebudgeting Terms by Sponsor
- Reporting Terms by Sponsor
- Restrictions on Allowable Costs Terms by Sponsor
- Subcontracting Approval Terms by Sponsor
- Travel Terms by Sponsor
National Institutes of Health (NIH)

The website for the NIH terms is the NIH Grants Policy Statement

As with all Federal awards, OMB’s Uniform Guidance applies, except as modified by the sponsor-specific terms.

- **Period of Performance extensions:**
  - may incur pre-award costs 90 days prior to award without prior approval.
  - may extend award one time up to 12 months at no additional cost; notification of extension must be submitted prior to award expiration.
  - Subsequent extensions, or extensions requested after award has expired, require NIH prior approval, and must be submitted in writing.

- **Personnel Changes**
  - Applies to PI or other Senior/Key Personnel named in the Notice of Award
  - Prior approval required to reduce effort by 25% or more from the approved level
  - Prior approval required for absence or disengagement of 3 months or more
  - Prior approval required to change PI or named Senior/Key Personnel

- **Restrictions on Allowable costs**
  - Participant Support Costs only allowable when identified in specific funding opportunity
The Matrix

RTC Prior Approval Matrix published June 30, 2017

- Matrix shows when sponsor approvals are needed for common award changes
- Consolidates the interim guidance that the agencies put out after UG
- Includes NSF, DoE, NIH/HHS, USDA/NIFA
- Will not include DoD and its branches
- Matrix, RTCs and a side by side comparison of UG and the RTCs are all accessible on the NSF website at: https://www.nsf.gov/awards/managing/rtc.jsp
<table>
<thead>
<tr>
<th>Reference</th>
<th>RTC Overlay</th>
<th>NSF</th>
<th>DOE</th>
<th>NIH</th>
<th>USDA/NIFA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior Written Approval (prior approval)*</td>
<td>200.407</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts</td>
<td>200.407(a)</td>
<td></td>
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<tr>
<td>Changes in principal investigator (PI), project leader, project partner, or scope of effort.</td>
<td>200.201(b)(5)</td>
<td>Required</td>
<td>Required</td>
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<tr>
<td>Cost sharing or matching</td>
<td>200.407(b)</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>Use of unrecovered indirect costs, including indirect costs on cost sharing or matching.</td>
<td>200.306(c)</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
</tr>
<tr>
<td>Use of current fair market value to determine the value of non-Federal entity donations of services and property for the purposes of cost sharing or matching.</td>
<td>200.306(d)(2)</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
</tr>
<tr>
<td>Costs of the fair market value of equipment or other capital assets and fair rental charges for land when the Federal award supports activities that require use of equipment, buildings or land.</td>
<td>200.306(h)(2)</td>
<td>Required</td>
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<td>Program Income</td>
<td>200.407(c)</td>
<td>Waived</td>
<td>Waived</td>
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<td>Waived6</td>
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<tr>
<td>Revision of budget and program plans</td>
<td>200.407(d)</td>
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<td></td>
<td></td>
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<tr>
<td>Change in the scope or the objective of the project or program.</td>
<td>200.308(c)(1)(i)</td>
<td>Required</td>
<td>Required</td>
<td>Required</td>
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<tr>
<td>Change in PI/PD specified in the application or Federal award.</td>
<td>200.308(c)(1)(ii)</td>
<td>Required</td>
<td>Required14</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>Disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project by the approved PI/PD.</td>
<td>200.308(c)(1)(iii)</td>
<td>Required</td>
<td>Required12</td>
<td>Required</td>
<td>Required</td>
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<tr>
<td>Inclusion, unless waived, of costs that require prior approval in accordance with Subpart E -- Cost Principles.</td>
<td>200.308(c)(1)(iv)</td>
<td>Required</td>
<td>Waived1</td>
<td>Required</td>
<td>Waived</td>
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<tr>
<td>Transfer of funds budgeted for participant support costs to other categories of expense.</td>
<td>200.308(c)(1)(v)</td>
<td>Required</td>
<td>Waived</td>
<td>Required</td>
<td>Waived6</td>
</tr>
<tr>
<td>Subawarding, transferring or contracting out any work under a Federal award. This provision does not apply to the acquisition of supplies, materials, equipment or general purpose services.</td>
<td>200.308(c)(1)(vi)</td>
<td>Required</td>
<td>Waived</td>
<td>Waived6</td>
<td>Waived16</td>
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<tr>
<td>Changes in the approved cost-sharing or matching provided by the non-Federal entity.</td>
<td>200.308(c)(1)(vii)</td>
<td>Required</td>
<td>Required</td>
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<td>Required</td>
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<tr>
<td>Need for additional Federal funding to complete the project.</td>
<td>200.308(c)(1)(viii)</td>
<td>Required</td>
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<td>Required</td>
<td>Required</td>
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<tr>
<td>Incurred project costs 90 calendar days before the Federal awarding agency makes the award.</td>
<td>200.308(d)(1)</td>
<td>Waived</td>
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<td>Waived</td>
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<tr>
<td>Incurred project costs more than 90 calendar days pre-award.</td>
<td>200.308(d)(1)</td>
<td>Waived</td>
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<td>Waived</td>
<td>Waived</td>
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<tr>
<td>Initiate a one-time extension of the period of performance by up to 12 months.</td>
<td>200.308(d)(2)</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
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<tr>
<td>Subsequent no-cost extension or extension of more than 12 months.</td>
<td>200.308(d)(2)</td>
<td>Required</td>
<td>Required</td>
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<td>Required</td>
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<tr>
<td>Carry-forward of unexpended balances to subsequent funding periods.</td>
<td>200.308(d)(3)</td>
<td>Waived</td>
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<td>Waived10</td>
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<tr>
<td>Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.</td>
<td>200.308(d)(4)</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
<td>Waived</td>
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<tr>
<td>Rebudgeting among direct cost categories for Federal awards in which the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the approved budget.</td>
<td>200.308(e)</td>
<td>Waived</td>
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<td>Waived</td>
<td>Waived11</td>
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<tr>
<td>Transfer of funds between construction and non-construction activities.</td>
<td>200.308(g)(5)</td>
<td>Required</td>
<td>Required</td>
<td>Required</td>
<td>Required</td>
</tr>
</tbody>
</table>

Sample lines from the matrix shown for demonstration purposes only. Full PDF of matrix available for download from https://www.nsf.gov/awards/managing/rtc.jsp
How to Use These Resources

• Look at the prior approval matrix for a quick answer
  – How to read it: Waived vs Required

• Look at summary pages for more detailed answer specific to that Sponsor
  – NOTE: Even if prior approval is waived, notification may be required prior to award expiration. How much lead time is needed?

• Finally, look at the award terms
  – NOTE: Any of the agency standard term may be overridden by a special term or condition in the award
The Control Environment

Agreement

Agency-specific Terms

MIT Policy

Federal Regulations
How can I tell if UG/RTC applies to my award?

- Uniform Guidance = 2 CFR Part 200

- RTC sample clause:

What’s New?

• NIH, NSF, DoE and USDA all put out interim guidance after UG which gave us back the expanded authorities that we had before UG. But you had to comb through the guidance to find them

• This is the first time since Dec 2014 that a revised Matrix is finally available for use
What’s new –
Similarities & Differences by Category

• The Matrix is most useful if you have a mixed funding portfolio
• Rules for the current list of agencies on the matrix are similar
• When new agencies join later this year, we may see more variations
Example:

• Can I get a no-cost extension on an NIH grant?
  – Look at the Matrix
  – Remember that even if prior approval is waived, notification may be required
  – Is this the first extension?
  – Check the OSP term summaries, such as:
    • [http://osp.mit.edu/terms/NIH](http://osp.mit.edu/terms/NIH)
  – Are there award-specific terms? check KC record

• How about on an NSF grant? DoE?
  • DOE Office of Science requires request for no-cost extensions be submitted in PAM
  • DOE Idaho must submit a request to the DOE Idaho Program Manager
Other Examples:

- Can I rebudget funds into Participant Support Costs for NSF?
- Can I rebudget funds out of Participant Support Costs for NSF?
  - What sort of prior approval or notification is needed?
- How about NIH? DoE?
- Rebudgeting Terms by Sponsor:
  - [http://osp.mit.edu/terms/rebudgeting](http://osp.mit.edu/terms/rebudgeting)
Other Examples

• Can I buy equipment on a DoE grant?
  – Is prior approval or notification needed?

• What about USDA? NIH? NSF?
• Equipment and Property Terms by Sponsor
  – [http://osp.mit.edu/terms/equipment-property](http://osp.mit.edu/terms/equipment-property)
Other Examples

• Can I incur pre-award costs on an ONR grant?
  – Is prior approval or notification needed?

• Note that the RTCs and the Prior Approval Matrix do not include the DoD agencies: AFOSR, ONR, ARO/ARL, etc.
Department of Defense

• **However**, DoD published new R&D General Term and Conditions July 2016

• Gives back some of the expanded authorities

• OSP’s **Standard Terms summary pages** for these agencies reflect their interim guidance

• OSP is working on updating the pages to incorporate these new DoD T&Cs, but changes from the interim guidance looks minimal
WHAT QUESTIONS DO YOU HAVE?
Summary

• The **Matrix** can be a handy tool for quick answers
  – But even if approval is waived, still need notification

• **OSP summary pages** give quick guidance by Sponsor or by Category

• **Agreement terms** overrule all of these

• It’s complicated!!
  – Let your **OSP Representative** know what changes you’re planning on making
  – We’ll help you through the process and answer any questions