

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



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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>

Research Terms and Conditions Appendix A
Prior Approval Matrix
June 30, 2017

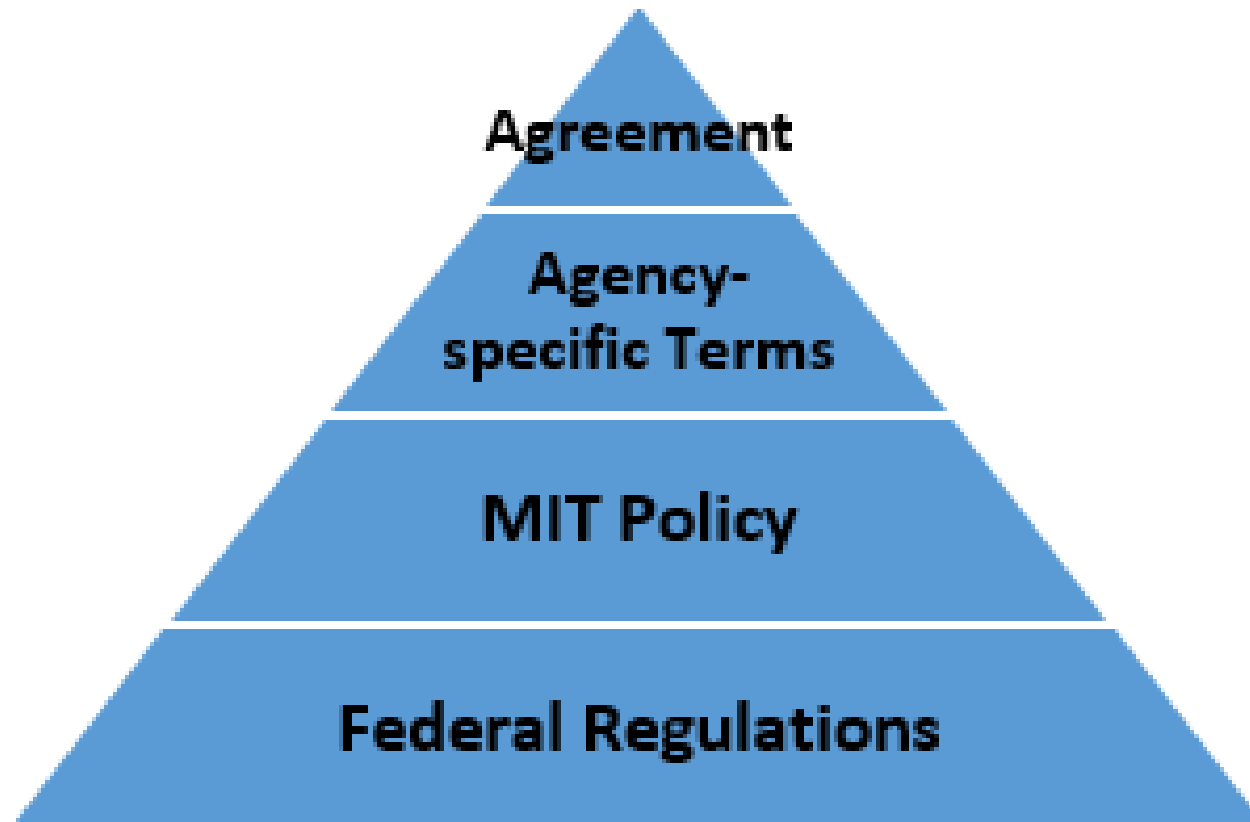
	Reference	RTC Overlay	NSF	DOE	NIH	USDA NIFA
Prior Written Approval (prior approval)*	200.407					
Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts	200.407(a)					
Changes in principal investigator (PI), project leader, project partner, or scope of effort.	200.201(b)(5)	Required	Required	Required	Required	Required
Cost sharing or matching	200.407(b)					
Use of unrecovered indirect costs, including indirect costs on cost sharing or matching.	200.306(c)	Waived	Waived	Waived	Waived	Waived ¹⁵
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.	200.306(d)(2)	Waived	Waived	Waived	Waived	Waived
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.	200.306(h)(2)	Required	Required	Required	Required	Required
Program Income	200.407(c)					
Use of program income during the period of performance (additive method).	200.307(e)(2)	Waived	Waived	Waived	Waived ⁵	Waived
Revision of budget and program plans	200.407(d)					
Change in the scope or the objective of the project or program.	200.308(c)(1)(i)	Required	Required	Required	Required	Required
Change in PI/PD specified in the application or Federal award.	200.308(c)(1)(ii)	Required	Required ¹⁴	Required	Required	Required
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.	200.308(c)(1)(iii)	Required	Required ¹⁴	Required	Required ⁶	Required
Inclusion, unless waived, of costs that require prior approval in accordance with Subpart E -- Cost Principles.	200.308(c)(1)(iv)	Required	Waived ¹	Required	Waived ⁷	Required
Transfer of funds budgeted for participant support costs to other categories of expense.	200.308(c)(1)(v)	Required	Required ²	Required	Waived ⁸	Required
Subawarding, transferring or contracting out any work under a Federal award. This provision does not apply to the acquisition of supplies, material, equipment or general purpose services.	200.308(c)(1)(vi)	Required	Required	Required	Waived ⁹	Waived ¹⁶
Changes in the approved cost-sharing or matching provided by the non-Federal entity.	200.308(c)(1)(vii)	Required	Required	Required	Required	Waived ¹⁷
Need for additional Federal funding to complete the project.	200.308(c)(1)(viii)	Required	Required	Required	Required	Required
Incur project costs 90 calendar days before the Federal awarding agency makes the award.	200.308(d)(1)	Waived	Waived	Waived	Waived	Waived
Incur project costs more than 90 calendar days pre-award.	200.308(d)(1)	Required	Required	Required	Required	Required
Initiate a one-time extension of the period of performance by up to 12 months.	200.308(d)(2)	Waived	Waived	Waived	Waived	Waived
Subsequent no-cost extension or extension of more than 12 months.	200.308(d)(2)	Required	Required	Required	Required	Required
Carry-forward of unexpended balances to subsequent funding periods.	200.308(d)(3)	Waived	Waived	Waived	Waived ¹⁰	Waived
Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.	200.308(d)(4)	Waived	Waived	Waived	Waived ¹¹	Waived
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.	200.308(e)	Waived	Waived	Waived	Waived ¹¹	Waived
Transfer of funds between construction and non-construction activities.	200.308(g)(5)	Required	Required	Required	Required	Required
Real Property	200.407(e)					
Encumber real prop					Required	Required

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



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

- Uniform Guidance = 2 CFR Part 200

- RTC sample clause:

“This grant is subject to Research Terms and Conditions (RTCs) dated March 14, 2017, and NSF Agency Specific Requirements, dated April 3, 2017, available at: <https://www.nsf.gov/awards/managing/rtc.jsp>”

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/pop-extensions>
 - <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>

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>

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
<https://www.onr.navy.mil/Contracts-Grants/submit-proposal/grants-proposal/grants-terms-conditions.aspx>
- 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