

Office of Sponsored Programs
Procedure 10006 Documenting Award Negotiations

Revision Date: 10/15/2015

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1. Introduction

Responsible Officials: Directors of Pre Award or Contracts, as applicable

Effective Date: July 18, 2003

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IMPORTANT: For federal awards/subawards issued to Virginia Tech with a start date prior to December 26, 2014, 2 CFR Part 215 (OMB Circular A-110) and 2 CFR, Part 220 (OMB Circular A-21) apply. For all new funds (new awards and new monies, such as continuation awards, supplements, etc. received for existing awards) with a start date on or after December 26, 2014, these new funds are subject to 2 CFR Part 200 (commonly referred to as Uniform Guidance—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) but hereinafter referred to as “2 CFR Part 200”).

Due to the change in federal regulations the language in this procedure specific to the new regulations, 2 CFR Part 200, is highlighted in red font below.

2. Scope

This procedure outlines the requirements necessary to achieve a viable negotiated award between Virginia Tech and an external sponsor. The procedure applies to all university departments and offices that are involved in the administration or use of sponsored award funds.

3. Procedure Statement

The Office of Sponsored Programs (OSP) functions as the steward of Virginia Tech’s research portfolio and is responsible for ensuring that all research proposals and projects comply with university, federal, and sponsor regulations, policies, and procedures. The negotiation of terms, conditions, and price of a sponsored award and the documentation of these negotiations is the responsibility of the Contracts Team and the Pre Award Team in OSP. Negotiations between external sponsors and Virginia Tech (through OSP) should be documented and will serve as a primary basis for interpretation in the event of a disagreement between the sponsor and university.

4. Reason for the Procedure

This procedure is to inform the community of the requirements associated with the negotiation of a sponsored award. An award negotiation will only be considered complete upon the receipt and review of a viable proposal. The assigned Pre Award Associate shall be responsible for reviewing the proposal and its associated budget for compliance with federal, state, university, and sponsor guidelines.

5. Definitions

Unfunded Agreements – Informally, an unfunded agreement refers to a research-related agreement that does not have incoming dollars attached. Virginia Tech faculty researchers often engage in activities or collaborations that do not involve payment from sponsors. These activities may include preliminary confidential discussions with potential research sponsors, requests for research materials from external sources, or data sharing consortiums made up of one or more scientists or institutions.

Unfunded research activities are generally carried out under written contracts that set out each of the parties' expectations and specific responsibilities. Coordination of unfunded research activities can be complex, and some may require university approvals for the use of university property and space, faculty effort, students, or compliance committee approvals for protocols involving human or animal subjects. OSP reviews draft agreements or other award documents and negotiates mutually acceptable terms and conditions, as necessary. This process can take time.

- *Data Use Agreements* – A DUA is needed any time there will be a transfer of data, a dataset or software that is non-public or is otherwise subject to restrictions on its use, a DUA may or may not consist of human subject data. Some examples of DUAs include:
 - Data sharing agreements
 - Data license agreements
 - Access agreements
 - Business Associate Agreements (BAA)
- *Master Agreements* – A comprehensive contract that governs all research activities supported by a particular sponsor. Individual project specific addendums (or task orders) are issued each time a new project is engaged. Each addendum details such aspects as the personnel, funding amount, performance period, and scope of work for the individual project, along with any deviations from the terms of the Master Agreement that may be necessary for performance of the specific project. Also called “umbrella” agreements, this mechanism often takes much longer to establish than a traditional agreement, however it virtually eliminates any need to negotiate the individual project addendums.
- *Material Transfer Agreements* – Use an MTA when sending or receiving physical materials or software to/from a non-Virginia Tech entity.
- *Non-Disclosure Agreements* – A non-disclosure agreement (NDA) ensures that certain information disclosed in discussions are kept confidential and are only used for the limited purposes defined in the NDA. NDAs might also be referred to as confidentiality agreements (CA), or proprietary information agreements (PIA).

- *Other Unfunded Agreements (UFA)* – This category is a catchall for UFAs that do not fall into the above categories. Some examples include:
 - Memoranda of understanding
 - Unfunded collaboration agreements
 - Facility access agreements
 - Visiting researcher agreements
 - International research agreements
- *Teaming agreements* – Generally unfunded, and are entered into by parties agreeing to participate in a collaborative effort. The preparation and submission of a single proposal from multiple collaborating institutions is an instance in which a teaming agreement may be utilized.

OSP Award File – The paper award file including any related sub-folder. The particular sub-folder used is dependent upon internal process manuals.

OSP Official Electronic File – The electronic file is a mechanism for storage of electronic documents regarding awards associated with Virginia Tech sponsored research. This repository may change its format as technology changes, but the duty of organization, maintenance, upkeep and implementation resides with OSP.

Statement of Work (SOW) – An SOW is attached to a Sponsored Research Agreement or a Sub-recipient Agreement and describes the work to be performed. The SOW should describe the tasks to be performed, the deliverables to be provided to the sponsor and the dates the deliveries are to be made. (Payments may also be associated with the deliverables, particularly if you are working on a fixed-price agreement.) The SOW should also contain a timeline for performance of the project. SOWs that lack specificity in describing the tasks, the deliverables dates, and a measurable timeline for completing tasks and providing the deliverables can often lead to contract disputes because of ambiguities in the agreement and the expectations of the parties. To avoid such disputes, it is important for the parties to be specific in defining tasks, deliverables, timelines, and expectations. If the performance of the project is dependent on any action to be taken by the sponsor, those obligations of the sponsor should also be specifically defined.

6. Negotiations Initiation

Negotiations shall be initiated upon receiving evidence that the sponsor intends to fund the proposed project. The assigned Contracts Associate or Pre Award Associate shall maintain full responsibility for documenting the negotiations, and documentation they deem to be relevant and useful to future negotiations or understanding of the basis for the terms in the agreement shall be maintained in the OSP official electronic file.

When required, all negotiations are to include the appropriate inputs from other university offices including, but not limited to: University Legal Counsel, Office of Export and Secure Research, and Virginia Tech Intellectual Properties. Personnel in these offices may conduct negotiations related to their individual expertise; however, the Contracts Associate or Pre Award Associate retains the responsibility for the complete negotiation and its proper documentation. The principal investigator is responsible for negotiating the scope of work and/or any modification to the scope of work.

7. Contracts Team Responsibilities

- The Contracts Team shall negotiate funded and unfunded awards and agreements including, but not limited to, contracts, federal contracts, federal flow-down contracts, cooperative agreements, and awards from the federal Department of Defense, NASA and the Department of Energy.
- Grants and cooperative agreements containing contractual language not typically included shall be directed to the Contracts Team for review.
- The Contracts Team shall also review and negotiate any subsequent award modifications that change the funded amount, the terms and conditions and/or the scope of work.
- The Contracts Team shall also be responsible for negotiating unfunded agreements including master, data use, non-disclosure, teaming, material transfer, and other unfunded agreements.

8. Pre Award Team Responsibilities

- The Pre Award Team shall be responsible for reviewing and finalizing grants, federal grants (with the exception of Department of Defense, NASA, and Department of Energy) and cooperative agreements.
- Grants and cooperative agreements containing contractual language not typically included shall be directed to the Contracts Team for review.

9. References

- [2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(Uniform Guidance\)](#)
- [OSP Procedure 30005](#), Sponsored Award Files - Closeout
- [OSP Procedure 10011](#), Sponsored Award File Establishment and Maintenance

10. Contacts

- **Director of Pre Award**
Office of Sponsored Programs
North End Center, Suite 4200
300 Turner Street NW
Blacksburg, VA 24061
540.231.8054
- **Director of Contracts Administration**
540.231.1216
- **Assistant Vice President for Sponsored Programs**
540.231.5281

11. Roles and Responsibilities

- **Principal Investigators (PIs):**
 - Contact OSP when negotiating funded and unfunded awards and agreements or their modifications.
 - Handle negotiating the scope of work and/or any modification to the scope of work.
- **Office of Sponsored Programs**
 - Negotiate sponsored funded and unfunded awards and agreements on behalf of Virginia Tech.
 - Maintain appropriate files and documentation in support of negotiated awards and agreements.

12. Dissemination

This procedure may be posted on a Virginia Tech internet accessible site. Open public dissemination of this procedure is allowed.

13. Approval and Revisions

This procedure was approved originally on July 18, 2003 by the Director, Office of Sponsored Programs.

This procedure was updated to reflect current working processes in a revision dated November 16, 2011 by the Assistant Vice President for Sponsored Programs Administration.

This revision approved October 15, 2015 by the Assistant Vice President for Sponsored Programs. This major revision updates the formatting of the procedure, brings the procedure into compliance with [2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(Uniform Guidance\)](#) and other minor edits for title changes and clarity.

The official version of this information will only be maintained in an on-line web format.
Any and all printed copies of this material are dated as of the print date.
Please make certain to review the material on-line prior to placing reliance on a dated printed version.
