FDP Contracts
Subcommittee

Janette Hannam-Hayes, Emory University
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FDP Meeting – May 2024
Contracts Subcommittee

Members

John Bartlett, University of South Florida

Jenny Chavira, University of California, San Diego

Alexandra Dennis, Johns Hopkins University

Heide Eash, University of Pittsburgh, IT Security Clauses Workgroup Co-Lead

Elizabeth Eason, Georgia Tech University: State Requirements Workgroup Lead

Gloria Greene, University of Alabama-Huntsville

Katherine Kissmann, Texas A&M University

Hallie Leavell, University of Alabama

Stacia Levy, University of Pennsylvania

Brian Lowinger, Duke University, OTA Workgroup Workgroup Lead

Andrea Lupu, University of California, San Diego

Chrissa Papaioannou, University of Alabama

Kathleen Powell, Virginia Commonwealth University

Julie Robinson, University of Illinois, Urbana-Champaign: IT Security Clauses Workgroup Co-Lead

Bill Schoelwer, University of Virginia: Federal Lab Review & Negotiation Techniques Workgroup Lead

Elizabeth Slack, University of Maryland, College Park

Mary Sladek, NASA

Jamie Sprague, Cornell University

Claire Stamm, George Washington University

Dena-Rose Wilson, University of South Florida
Committee Recap

Our main objectives include:

• Identify common contract processing practices that can be expedited by uniform procedures within FDP VII

• Design, monitor, and evaluate new procedures and concepts that are in response to the legal requirements of the contracts process

• Study the similarities/differences between the grant and contract processes to see if gains in costs and efficiency can be generated by adapting some of the FDP grant procedures for use with contracts

• Provide a forum for discussion of and possible resolutions for contracting issues as they arise for member institutions and agencies

Examples of previous Contract Subcommittee Outputs:

• FAR Guidance Resource Document

• Fundamental Research determination request template

• Discussions with FDP membership and sponsor about contract clauses
Committee Activities


- Will be collaborating with FDP Subawards Committee on three workgroups
  - FFRDC Workgroup
  - State Requirements Flowdowns Workgroup
  - OTA Workgroup

- Working with FDP to get Troublesome Clauses 2.0 back on schedule
Session Topics

• ARPA-H OTA Presentation
• IT Security Workgroup- Term Sheet resource & other work group updates
• Working with Federal Labs
ARPA-H OTA Presentation
IT Security Working Group

• Established 2023
  • Initial meeting held to establish objectives

• Workgroup members:
  • John Bartlett, University of South Florida
  • Katie Cook, Michigan State University
  • Co-Chair: Heide Eash, University of Pittsburgh
  • Janette Hannam-Hayes, Emory University
  • Hallie Leavell, University of Alabama
  • Co-Chair: Julie Robinson, Univ of Illinois at Urban-Champaign
  • Jamie Sprague, Cornell University
New Resource created: IT Security Term Sheet

This resource was developed to provide general guidance on IT Security clauses commonly seen in contracts, subcontracts, and Other Transaction Authority agreements. Information is at a high level and proposed solutions will vary by institution.

It has been posted to the Contracts Subcommittee webpage!
Working with Federal Labs
Structure and Scope

- 46 labs owned by the federal government and operated by:
  - **Universities**: Iowa State, MIT, Princeton
  - **Partnerships**: Triad National Security, LLC and Lawrence Livermore National Security, LLC
  - **Non-profit entities**: MITRE Corp, Brookhaven Science Associates, LLC, Alliance for Sustainable Energy, LLC

- Long term relationship with federal sponsoring agencies
- Affiliated with a variety of federal agencies:
  - DOE, DoD, NSF, DHS, NRC
- 10.5% of Government’s $141.5 billion R&D budget goes to FFRDCs
  - 23.5% to universities
Agency M&O Prime Contract

- Governed by the Federal Acquisition Regulations (FAR)
  - Far Part 35 dealing with Research and Development Contracting
- Prime Sponsoring Agency Contract – FAR 35.017-1
  - Statement of purpose and mission of the FFRDC
  - Termination, disposition of assets, settlement of liabilities
  - Non-competition with other non-FFRDCs on non-FFRDC solicitations
- M&O Clauses from Sponsoring Agency
  - “an agreement under which the Government contracts for the operation, maintenance, or support, on its behalf, of a Government-owned or -controlled research, development, special production, or testing establishment wholly or principally devoted to one or more major programs of the contracting Federal agency.” (FAR § 17.601)
Proposal and Award Process

- Reps/ Certs that contain FAR/ Agency Supplement provisions that proposal submitting offices may not have encountered previously
  - Review SOW with PI for limited rights assertions
  - Ensure any reps/certs align with the type of research performed
  - Have to be completed for every project although most are the same (continuing to ask for reps and certs vs. relying on Sam.gov)

- Interpretation of clauses vary between National Labs

- Frequently involve a compressed timeline for contractual review as they require exceptions to their terms and conditions at proposal stage.
  - In many cases, preaward spending is not allowed which puts pressure on negotiator and project staff.
  - Turnaround times from National Labs on clauses that need to be negotiated are not reasonable in many cases
• Negotiations are many times conducted with Procurement Specialists who do not understand University research
  • Purchase orders are issued later with additional terms and many times are not expected

• Flowing down terms that are not applicable to the project being conducted at the University and refusing to remove terms (e.g., M&O contract terms)
What outcomes do we want?

Potential outcomes:

• Standard Terms & Conditions/Templates
• Master contract for all work with a University (with POs for SOWs)
• University position paper
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