

Implementation of the Research Terms & Conditions

FDP Meeting
May 12, 2017



Research Terms and Conditions

- The purpose of the activity was to develop a revised set of Research Terms and Conditions (RTC) to implement the Uniform Guidance.
- The original RTCs were intended to be a model implementation of OMB Circular A-110.

Participating Agencies

- Department of Agriculture: NIFA
- Department of Commerce: NIST/NOAA
- Department of Homeland Security
- Department of Energy
- Department of Transportation: FAA
- Environmental Protection Agency
- NASA
- NIH – co-Chair
- NSF – co-Chair





High-Level Concept

Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), 2 CFR § 200

March 14, 2017

These Research Terms and Conditions implement the requirements of the [Uniform Guidance](#), issued by the U.S. Office of Management and Budget, as it applies to research and research-related grants made by the Federal awarding agencies specified below to institutions of higher education and non-profit organizations. While the Uniform Guidance outlines provisions that are specific to research, these terms and conditions:

- Incorporate the entire Uniform Guidance by reference, clarifying or supplementing select provisions where appropriate and consistent with government-wide research policy.
- Incorporate the set of Frequently Asked Questions in effect at the time the award is made for the Office of Management and Budget's *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* at 2 CFR § 200 (located at <https://cfo.gov/cofar-resources>). These FAQs are meant to provide additional context, background, and clarification of the policies described in 2 CFR § 200.
- Apply to an award when included as part of the award or when incorporated in the award by reference.

In addition to these Research Terms and Conditions, recipients also must review the following companion resources:

- Appendix A, Prior Approval Matrix;
- Appendix B, Subaward Requirements Matrix; and
- Appendix C, National Policy Requirements Matrix.

The agencies participating in this activity include the: U. S. Department of Commerce/National Oceanic and Atmospheric Administration and National Institute of Standards and Technology; U.S. Department of Energy; U.S. Environmental Protection Agency; National Aeronautics and Space Administration; National Science Foundation; U.S. Department of Health and Human Services/National Institutes of Health; U.S. Department of Agriculture/National Institute of Food and



High Level Concept (Cont'd)

The Research Terms and Conditions Overlay:

- Incorporates the entire Uniform Guidance by reference, clarifying or supplementing select provisions where appropriate and consistent with government-wide research policy.
- Examples:
 - 200.17, Cluster of programs identifies the types of programs that share common compliance requirements, and include research and development, student financial aid, and other clusters. RTCS specify that all awards that incorporate the research terms and conditions meet the definition of Research and Development and auditees should identify them as part of the R&D cluster on the Schedule of Expenditures of Federal Awards (SEFA).



High Level Concept (Cont'd)

- 200.301, Performance measurement outlines the requirement that “the Federal awarding agency must require the recipient to relate financial data to performance accomplishments of the Federal award. Also, in accordance with above mentioned standard information collections, and when applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data).” RTCs specify that, “For awards that support research, there is a standard information collection method (i.e., the Research Performance Progress Report) for performance that does not relate financial information to performance data. Therefore, there is no such requirement.”

High Level Concept (Cont'd)

- 200.306, Cost sharing or matching states that unrecovered indirect costs may be included as cost sharing or matching only with the prior approval awarding agency. RTCs specify that, “The recipient may include unrecovered indirect costs as part of cost sharing or matching without prior approval.”
- 200.328, Monitoring and reporting program performance. RTCs specify the Federal awarding agency must utilize the Research Performance Progress Report for use in reporting all research and research related activities.

High Level Concept (Cont'd)

- 200.343, Closeout, states that “The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award. The RTCs specify that “The non-Federal entity must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports required by the terms and conditions of the Federal award.
- 200.407 Prior written approval, provides a listing of all prior approval requirements. The RTCs have a listing of all waived prior approvals, and, all those prior approval requirement approval requirements that have not been waived.

Companion Documents

The following additional documents are included in the implementation of the RTCs:

- Appendix A, Prior Approval Matrix
- Appendix B, Subaward Requirements Matrix
- Appendix C, National Policy Requirements Matrix
- Agency Specific Requirements

Appendix A: Prior Approval Matrix

Research Terms and Conditions Appendix A Prior Approval Matrix March 14, 2017

	Reference	RTC Overlay	NSF	DOE	NIH
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
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
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
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
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
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
Change in a key person specified in the application or Federal award.	200.308(c)(1)(ii)	Required	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	Required	Required ⁶
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
Transfer of funds budgeted for participant support costs to other categories of expense.	200.308(c)(1)(v)	Required	Required	Required	Waived ⁸
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
Changes in the approved cost-sharing or matching provided by the non-Federal entity.	200.308(c)(1)(vii)	Required	Required	Required	Required
Need for additional Federal funding to complete the project.	200.308(c)(1)(viii)	Required	Required	Required	Required
Incur project costs 90 calendar days before the Federal awarding agency makes the award.	200.308(d)(1)	Waived	Waived	Required	Waived
Incur project costs more than 90 calendar days pre-award.	200.308(d)(1)	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
Subsequent no-cost extension or extension of more than 12 months.	200.308(d)(2)	Required	Required	Required	Required
Carry-forward of unexpended balances to subsequent funding periods.	200.308(d)(3)	Waived	Waived	Waived	Waived ¹⁰
Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.	200.308(d)(4)	Waived	Waived	Waived	Waived ¹¹
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
Transfer of funds between construction and non-construction activities.	200.308(g)(5)	Required	Required	Required	Required
Real Property	200.407(e)				
Encumber real property acquired with Federal funds.	200.311(b)	Required	Required	Required	Required
Transfer of title to the Federal awarding agency or to a third party.	200.311(c)(3)	Required	Required	Required	Required
Special arrangements and alterations costs incurred specifically for a Federal award.	200.462(a)	Required	Required ³	Required	Waived ¹²
Equipment	200.407(f)				
Encumber equipment acquired with Federal funds.	200.313(c)(1)	Required	Required	Required	Required
Fixed amount subawards	200.407(g)				
Subawards based on fixed amounts up to the simplified acquisition threshold, provided the subawards meet the requirements for fixed amount awards in 200.201.	200.332	Required	Required	Required	Required
Direct Costs	200.407(h)				



Appendix B: Subaward Matrix

Research Terms and Conditions Appendix B Subaward Requirements							
	Institutions of Higher Education	Non-Profit Organizations Other than Hospitals	Non-Profit Hospitals	For-Profit Hospitals	State, Local and Indian Tribal Governments	For-Profit Entities other than Hospitals and Foreign Entities	Non-Profit Organizations Identified in Appendix VIII to 2 CFR § 200
This subaward is subject to Allowable Cost Requirements specified In--							
	2 CFR § 200, Subpart E, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	2 CFR § 200, Subpart E, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	Agency implementations of 45 CFR part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals".	Agency implementations of 45 CFR part 74, Appendix E, "Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals".	Agency implementations of 2 CFR § 200, Subpart E.	Federal Acquisition Regulation (FAR) at 48 CFR part 31.	Federal Acquisition Regulation (FAR) at 48 CFR part 31.
This subaward is subject to the Administrative Requirements specified In--							
	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	Agency implementations of 2 CFR § 200, Subpart D.	Agency implementations of 2 CFR § 200, Subpart D.	Administrative requirements for awards to for-profit organizations of the Federal awarding agencies.	Agency implementations of 2 CFR § 200, Subpart D.
Agency Requirements Specified In--							
DOE	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	2 CFR § 200, Subpart D, the Research Terms and Conditions Overlay, and any applicable Agency Specific Requirements.	Agency implementation of 2 CFR § 200, Subpart D and 2 CFR 910.	Agency implementation of 2 CFR § 200, Subpart D and 2 CFR 910.	Federal Acquisition Regulation (FAR) at 48 CFR part 31 and 2 CFR 910.	Agency implementation of 2 CFR § 200, Subpart D and 2 CFR 910.
NIH	The Research General Terms and Conditions and the Agency Specific Requirements.	The Research General Terms and Conditions and the Agency Specific Requirements.	The Research General Terms and Conditions and the Agency Specific Requirements.	45 CFR 75 & the NIH Grant Policy Statement [http://www.nih.gov/grants/policy/policy.htm#gps].	45 CFR 75 & the NIH Grant Policy Statement [http://www.nih.gov/grants/policy/policy.htm#gps].	45 CFR 75 & the NIH Grant Policy Statement [http://www.nih.gov/grants/policy/policy.htm#gps].	45 CFR 75 & the NIH Grant Policy Statement [http://www.nih.gov/grants/policy/policy.htm#gps].
NSF	2 CFR § 200, Subpart E, the Research Terms and Conditions Overlay, and any applicable NSF Agency Specific Requirements.	2 CFR § 200, Subpart E, the Research Terms and Conditions Overlay, and any applicable NSF Agency Specific Requirements.	2 CFR § 200, Subpart E, the Research Terms and Conditions Overlay, and any applicable NSF Agency Specific Requirements.	NSF Grant General Terms and Conditions (GC-1) (http://www.nsf.gov/awards/managing/general_conditions.jsp), 2 CFR § 200 and, where referenced, the NSF Proposal and Award	NSF Grant General Terms and Conditions (GC-1) (http://www.nsf.gov/awards/managing/general_conditions.jsp), 2 CFR § 200 and, where referenced, the NSF Proposal and	NSF Grant General Terms and Conditions (GC-1) (http://www.nsf.gov/awards/managing/general_conditions.jsp), 2 CFR § 200 and, where referenced, the NSF Proposal and Award Policies and Procedures Guide	NSF Grant General Terms and Conditions (GC-1) (http://www.nsf.gov/awards/managing/general_conditions.jsp), 2 CFR § 200 and, where referenced, the NSF Proposal and



Appendix C: National Policy Requirements Matrix

Research Terms and Conditions Appendix C

NATIONAL POLICY REQUIREMENTS MATRIX

This listing of statutory/regulatory/and executive requirements is provided for information purposes only, and may not reflect all requirements that are applicable to a specific award.

Statutory/Regulatory/and Executive Based Requirements		Used For:		Requirement(s) that should be noted by the recipient
National Policy Requirements Applicable to all research agencies:	Type of Award	Type of Recipient	Specific Situation	
a) Nondiscrimination				
By signing or accepting funds under the agreement, the recipient agrees that it will comply with applicable provisions of the following, national policies prohibiting discrimination:				
<p>a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by:</p> <p>NSF at 45 CFR Part 611 NASA at 14 CFR Part 1250 DOE at 10 CFR Part 1040 EPA at 40 CFR Parts 7 and 12 USDA at 7 CFR Part 15 DOC at 15 CFR Part 8 HHS at 45 CFR Part 80 & 81</p>	Grants, cooperative agreements, and other financial assistance	All	All	<p>The following regulations require the recipient to flow down requirements to subrecipients.</p> <p>NSF at 45 CFR Part 611 NASA at 14 CFR Part 1250 DOE at 10 CFR Part 1040 EPA at 40 CFR Parts 7 and 12 USDA at 7 CFR Part 15 DOC at 15 CFR Part 8 HHS at 45 CFR Part 80 & 81</p>
<p>b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60.</p> <p>EPA at 40 CFR Parts 7 and 12</p>	Grants, cooperative agreements, and other prime awards defined at 40 CFR 60-1.3 as "Federally assisted construction contract."	All	Awards under which construction is to be done.	41 CFR 60-1.4(b) prescribes a clause that recipients must include in federally assisted, construction awards and subawards [60-1.4(d) allows incorporation by reference]. This requirement also is at: 32 CFR 33.36(l) (3) and at paragraphs 1. of Appendices A to 32 CFR Part 32 and 32 CFR Part 34.
<p>c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.).</p> <p>DOE at 10 CFR Part 1040 DOC at 15 CFR Part 8a HHS at 45 CFR Part 86 NASA at 14 CFR Part 1253 EPA at 40 CFR Parts 7 and 12</p>	Grants, cooperative agreements, and other financial assistance included at 20 U.S.C. 1682.	Educational institution [for sex discrimination, excepts all Institution controlled by religious organization, when inconsistent with the organization's religious tenets].	All educational program or activity receiving Federal financial assistance.	
<p>d. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.</p>	Grants, cooperative agreements, and other awards defined at 45 CFR	All	All	45 CFR 90.4 requires the recipient to flow down requirements to subrecipients [definition of "recipient" at 45 CFR 90.4 includes entities to which assistance is extended indirectly, through another recipient].



Federal Register Comments: Themes

The Federal Register comments can be grouped into 3 overarching themes:

- Requests
- Concerns
- Positive Feedback

Federal Register Comments: Themes

Requests for:

- Additional clarification
- Deviations from the Uniform Guidance

Federal Register Comments: Themes

Concerns over:

- The inclusion of references to OMB FAQs
- Agency implementation plans and agency participation

Positive Feedback:

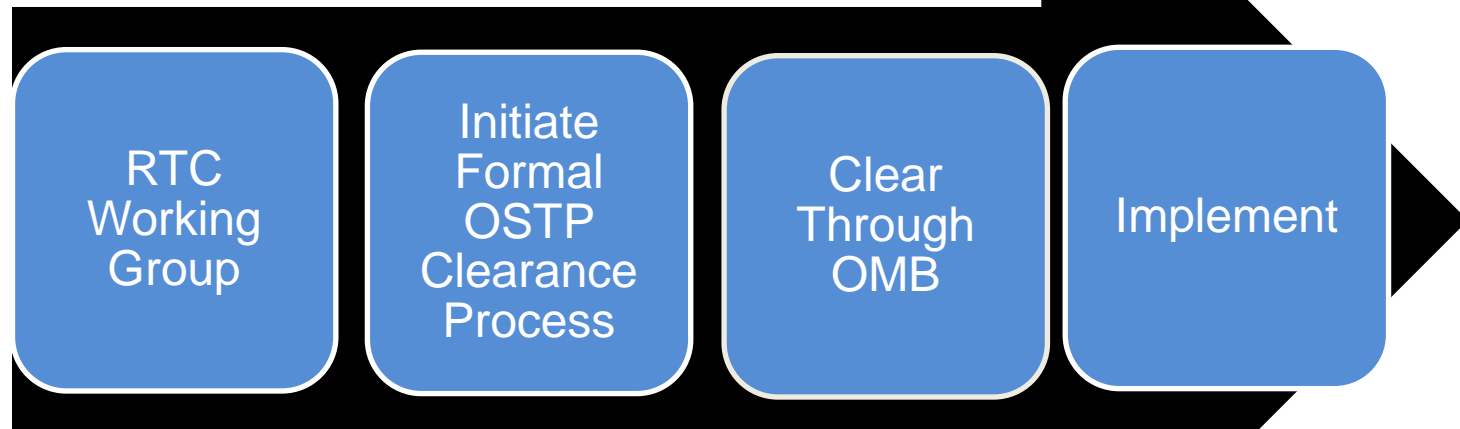
- Received for many sections of the Draft Research Terms and Conditions Overlay

OMB Review and Changes

- FAQs are now meant to provide additional context, background and clarification.
- Reference to waiver from procurement standards was eliminated.
 - AICA raises micro-purchase threshold to 10K.
- §200.210 Information contained in a Federal Award was deleted.
- Waiver of the prior written approval for fixed amount subawards at any amount was removed.
- “Shall” changed to “must” throughout the document.



Implementation Process



RTC working Group reconvened and resolved comments.

- RBM
- SBS Subcommittee
- Committee on Science

OMB/OFFM conducted Regulatory Review of the Final RTCs.

Each agency will implement according to the agency implementation plan.

Agency Implementation

- DOE April 2017
- NIH April 2017
- NSF April 2017
- USDA/NIFA June 2017
- Commerce October 2017
- DOT/FAA October 2017
- NASA October 2017
- DHS October 2017
- EPA December 2017



RTC Website

Research Terms and Conditions

Research Terms and Conditions - April 2017

[Federal Register Notice - Final Notice of Standard Terms and Conditions for Research Grants](#)

[Comments received in response to the request for public comment on the updated Research Terms and Conditions to address and implement the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards \(Uniform Guidance\) issued by the U.S. Office of Management and Budget \(OMB\) in the Federal Register \[80 FR 61849, October 14 2015\]](#)

[Federal Register Notice - Research Terms and Conditions to address and implement the Uniform Guidance, 2 CFR Â§ 200 - October 14, 2015](#)

[Research Terms and Conditions Agency Implementation Statements - May 4, 2017](#)

Research Terms and Conditions

- [March 14, 2017 \(side by side with Uniform Guidance\)](#)

[Research Terms and Conditions Appendix A Prior Approval Matrix - April 26, 2017](#)

[Research Terms and Conditions Appendix B Subaward Requirements - March 14, 2017](#)

[Research Terms and Conditions Appendix C National Policy Requirements - March 14, 2017](#)

Agency Specific Requirements

- [DOE - 4/17](#)
- [HHS/NIH - 4/17](#)
- [NSF - 4/17](#)



Questions?

