Preparing for Awards and Managing Contracts

Session Outline

- Sponsor correspondence
- JIT and other preparation prior to award
- Prepare for WBS establishment
- IPAS
- Contracts – who, what, when
- Award process in OSP

Scenario 1

- Dr. Watson submitted a proposal in the fall and has received a good score by the review panel.

- The sponsor notifies him he needs to provide JIT materials.

- The sponsor also asks for a reduced budget.

- What should Dr. Watson do now?

Scenario 2

- Dr. Smith is notified she is receiving an award from the Nebraska Dept of Education (NDE).

- NDE sends her the agreement and asks her to sign and return it.

- They also ask her to attend a meeting in Washington, DC the following week.

- What should she do?

Scenario 3

- Dr. Johnson plans to send a proposal in response to a federal RFP due 3 months from today.

- The RFP contains 3 pages of FAR clauses by reference.

- What steps should she take to appropriately respond to the RFP?

Scenario 4

- OSP receives a fully signed agreement with the PI signing for UNL.

- There is no statement of work or budget included and several of the agreement terms are unacceptable to UNL.

- No internal approvals (NUgrant routing) were obtained prior to receipt of this award.

- What steps were missed and what happens now?

Sponsor Correspondence

- After proposal is submitted possibilities for correspondence with sponsor
  - If PI needs to initiate a contact, discuss with Grants Coordinator to determine best approach
  - If asked for more information by sponsor, best to contact your Grants Coordinator before responding
  - Sponsors usually require updated information be approved by an institutional official (someone in OSP)
  - Sponsored Programs must be aware of any changes to a proposal after submission
- If PI is contacted by a Nebraska State Agency
  - PI should notify State of the appropriate Pre-award contact at UNL

Just In Time (JIT)

- Primarily NIH term, but used by other federal agencies

- Strategy to reduce burden on PIs and institutions

- Some transactions delayed until after proposal is reviewed and prior to award

- If proposal scored highly enough, JIT information will be requested – no funding commitments at this point

- Common JIT information can include:
  – IRB/IACUC approvals
  – Updated Other Support information
  – Revised budget
  – Updated biosketch(es)

Preparing for an Award – Compliance

- Discuss with Research Compliance any approvals for humans or animals that may be needed
  - Estimate time needed to obtain them and begin processes, as appropriate
- Discuss with Environmental Health and Safety
  - Biosafety, radiation safety, recombinant DNA and begin processes, as appropriate
- Complete or update Interest Reporting Form (IOARF)
  - Questions about form should be directed to Research Compliance
  - Conflicts of interest requiring committee review may take some time to obtain approval – plan ahead
- All above areas have modules in NUgrant

Preparing for an Award – Compliance

- Find contacts for Research Responsibility and Compliance at http://research.unl.edu/orr/staff.shtml

- Find information on Environmental Health and Safety at http://research.unl.edu/orr/ehs.shtml

Institutional Prior Approval to Spend (IPAS)

- Circumstances when use is appropriate

- Form available on OSP's Forms & Templates web page

- Processing an IPAS within OSP
  - Received by Post-award Specialist who checks if allowable
  - Awards Coordinator verifies if all compliance requirements are approved and checks with Pre-award Coordinator for award status update
  - If allowable and compliance approvals obtained, WBS is established for limited time period
  - Executed award releases full award period and $ funded

Requirements for Official WBS Set-up

- **Project information must be complete and include**:
  - Completed routing form in NUgrant
  - Interest Reporting Form(s) approved
  - Compliance approvals – IRB/IACUC/Biosafety
  - Copy of proposal
  - A budget that agrees with award amount
  - Cost share information, if applicable
  - Subaward Information, if applicable
    - Institutional letter of commitment
    - Subawardee sponsored programs contact information
    - Budget and justification
    - Detailed work statement

Contract Definition

A contract is an agreement, enforceable by law, between two or more competent parties.

For federal contracts, FAR 2.101 defines a contract as a mutually binding legal relationship that obligates the seller to furnish supplies or services and the buyer to pay for them.

Contracts

- Funding may be incremental, tied to set deliverables or schedules

- Final payment (e.g., 10%) may be held until "acceptance" of deliverables

- Federal process governed by Federal Acquisition Regulations (FAR)

Contract Types

Cost-Reimbursement

- Pays allowable costs that are expensed and invoiced
- Contractor must have adequate accounting system to track applicable costs

Fixed Price

- Price-based, not cost-based
- Price defined in contract (by unit or deliverable)
- May be firm or adjustable

Contracts – Cost Reimbursable vs. Fixed Price

- Cost reimbursable contracts paid on regular billing intervals or payment schedule
  - costs incurred will be paid
  - portion can be paid up front and expensed against
  - excess balance usually returned to sponsor
- Fixed-price contracts pay a flat amount whether or not costs are covered
  - any excess balance is often retained
- UNL requires a substantial up front payment on industry contracts regardless of the type

Contracts – Fixed Price Issues

- UNL must fully recover costs in performing services and should not generate profit or be in deficit

- Even if costs are found to be underestimated, UNL must still perform full SOW promised

- If costs are significantly overestimated, residual balances at project end may be subject to UBIT and affect UNL's tax status

- UBIT is Unrelated Business Income Tax – UNL's tax status is based on its non-profit related mission (education, research and community outreach)

Contracts – Fixed Price Issues

- Residual balances can violate state or federal regulations on non-profit status, or on cost-accounting standards

- Salaries for staff working on the project need to be charged in proportion to work done
  - If not, UNL may not comply with OMB Circular A-21 effort reporting requirements

- Must track effort through PARs

Contracts – UNL Policy on Residual Balances

When the following is complete:

- Work complete to UNL and sponsor satisfaction
- All reports provided to sponsor and accepted
- All project expenses have been charged to the project's WBS
- All sponsor payments received
- Residual Balance Transfer Form complete
- Any balances in excess of 25% of awarded amount justified and accepted by OSP

Contracts – UNL Policy on Residual Balances

Then:

- Residual balance will be transferred to cost center provided on Residual Balance Transfer Form
- Funds to be used to continue carrying out UNL's missing of teaching, research and extension

What is the FAR?

- Federal Acquisitions Regulations
- System of uniform policies and procedures governing acquisition (purchasing) for all federal agencies
- Procedures manual for federal agencies to acquire goods and services, including research

Contracting under the FAR

- Nature of contract determines type
  - Cost-Reimbursement
  - Fixed-Price
- Purpose can be any of following, we often are doing R&D work
  - Construction
  - **Research & Development**
  - Supply
  - Service

Contracts & OMB Circulars

- OMB A-21 (2 CFR 220) – Cost Principles
  - Incorporated by FAR 31.3, allowable costs

- OMB A-110 (2 CFR 215) – Uniform Admin Requirements
  - Sets standards for grants & cooperative agreements
  - Specific actions not applicable to contracts (i.e. expanded authorities)
  - **FAR replaces this circular in contracts**

- OMB A-133 – Audit Requirements
  - incorporated by FAR 52.215-02, Alt.II

Major Differences between Contracts & Grants

Contracts

- Often RFP solicitations
- Need for specific service/product
- Schedule technical & expenditure reports and/or other deliverables
- Payment often tied to deliverables
- Numerous special terms and conditions
- Close control on budget
- Usually audited
- Can be cancelled for default

Grants

- Often standard guidelines/proposal kits
- Support for proposed work in general programmatic areas - need to advance knowledge
- Requires technical progress reports
- Payments may be in advance, by schedule, or upon completion
- General terms and conditions
- Flexible budget control
- Some audited
- Almost never cancelled

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Awarding process - Contracts

Contracts Manager:

- Is notified a PI is planning to work with an industry sponsor
  - Provides PI or industry sponsor with UNL template agreement
  - Reviews sponsor's template, if they don't want to use UNL's
- Is notified PI is applying for federal funds that will be issued under a contract
  - Reviews contract terms referenced in the RFA or other docs
- Negotiates with the sponsor any necessary changes to the contract
- Obtains institutional signatures
- Ensures a NUgrant routing has been completed for the project & forwards to Awards Coordinator

Awarding process - Grants

Award arrives in OSP and Awards Coordinator:

- Reviews award terms & conditions alongside original proposal documents
  - Verifies routing form complete
- Reviews award budget against proposed budget
  - Verifies any cost share commitments documented
- Verifies subaward documents complete
  - Letter of commitment
  - contact information
  - budget and justification
  - detailed work statement

Awarding process - Grants

- Verifies compliance requirements are met, as necessary
  - IRB approvals obtained
  - IACUC approvals obtained
  - Biosafety approvals obtained
  - IRF(s) are current
- Obtains necessary signatures
- Submits to Post-award for creation of WBS and ongoing financial management
- NUgrant is updated with award information

NOTE: PARs from previous awards must be current and compliance approvals obtained before WBS is established.

Negotiation & Signature Authority

Sponsored Programs has authority for negotiation and acceptance of grants, cooperative agreements and contracts.

Signature authority is delegated by the Board of Regents (http://bf.unl.edu/bfpolicy/SignatureAuthority.pdf)

*Note: PIs, deans, chairs and others are **not authorized** to **negotiate or sign agreements** or any other sponsored programs document on behalf of the Board of Regents of the University of Nebraska.*

Official Institutional Information

Official Applicant/Recipient Entity:

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http://research.unl.edu/sp1

Useful Web sites

UNL Forms & Templates
http://research.unl.edu/sp1/unlforms.shtml

UNL Research Policies & Procedures
http://research.unl.edu/sp1/researchpolicies.shtml

OMB Circulars http://<u>www.omb.gov/circulars</u>

CFR   http://www.access.gpo.gov/nara/cfr/cfr-table-search.html

FAR   https://www.acquisition.gov/FAR/ or
http://farsite.hill.af.mil/vffara.htm

FDP   http://www.thefdp.org

CFDA   http://12.46.245.173/cfda/cfda.html