

6. AWARD NEGOTIATION AND ACCEPTANCE

6.1 OR Review and Negotiation

Often a sponsor will wish to fund a proposed project but would like to modify the proposed budget, work plan, or administrative details. The sponsor representative should be directed to OR, which will lead the negotiations for the university regardless of the simplicity or complexity of the negotiations. The appropriate contract administrator within OR will serve as liaison between university faculty/staff and the external sponsor.

Staff in OR's Sponsored Programs review all proposals for external funding before they are signed and sent to the potential sponsor; and the proposals are cursorily reviewed again when the university is informed that a project has been selected for funding. Sponsored Programs staff members work regularly with specific sponsors. The OR contract administrator will therefore be familiar with sponsor policies, and will be able to cite precedent during the negotiation process.

Contract review for negotiation purposes includes, but is not necessarily limited to, the following:

- correct legal name of the University (as awardee)
- appropriate awardee address
- period of performance
- statement of work
- budget
- payment terms
- terms and conditions, contract clauses
- Government clauses, if applicable
- deliverables
- reporting requirements
- publications
- ownership of intellectual property
- technical and administrative contacts

Some of the above items will be negotiated according to established University or State of Tennessee policy. These include payment terms, terms and conditions, legal name of the University, address, and venue of any ensuing legal dispute. Negotiation regarding the plan of work, budget, and so on is done in consultation with the principal investigator.

On no occasion should a principal investigator negotiate directly with sponsor contracting staff regarding a project. This extends to pre-award conversations as well. PIs are not empowered to represent the University for administrative purposes, and cannot make commitments regarding cost sharing of direct costs or facilities and administrative (F&A) costs, or use of other university resources such as space or personnel. Certainly, PIs can talk with potential sponsors about the technical aspects of their proposals.

6.2 Intellectual Property

The disposition of intellectual property resulting from a grant or contract is one of the most commonly disputed items in negotiations between the university and private sponsors (particularly industrial or commercial organizations). If contract provisions regarding intellectual property conflict with the university's "Statement of Policy on Patents, Copyrights, and Other Intellectual Property" or OR's contract administrator determines that further review is warranted, he/she will forward the contract to the University of Tennessee Research Foundation (UTRF). For more information, visit <http://utrf.tennessee.edu/tto/policy.html>. After reviewing the paperwork and talking with the project's PI, UTRF will negotiate the intellectual property provisions directly with the sponsor, advise OR of needed changes, recommend to OR that the University make an exception to the university's policy by accepting the contract's intellectual property provisions as written, or advise OR that the contract's intellectual property provisions are acceptable.

6.3 Certificate of Current Cost or Pricing Data (CCCPD)

If a federal agency negotiates an award greater than \$650,000 and if the government contracting officer determines that a Certificate of Current Cost or Pricing Data is warranted, the university (OR) is required to submit a completed certificate as soon as possible after negotiations with the Federal agency are complete and prior to award.

6.4 Small Business Subcontracting Plan

If an agency of the federal government negotiates an award greater than \$500,000 and if the government contracting officer determines that a subcontracting plan (FAR Subpart 19.7) is warranted, Sponsored Programs staff will notify the PI that he/she should complete a plan and forward it to OR. Sponsored Programs staff will review and sign the plan and forward it to the agency. Be advised that a subcontracting plan does not apply solely to subcontracted technical effort. Rather, it applies to all costs (e.g., laboratory supplies, travel, technical effort, etc.).

The University of Tennessee is committed to utilizing qualified, small or small and disadvantaged businesses in the procurement of supplies and services for the university. A list of qualified bidders is maintained by the university's Purchasing Department, 5723 Middlebrook Pike, or call (865) 974-3311.

The university must report on a quarterly basis its progress in achieving the goal which is established in the subcontracting plan. This report should be prepared by, or under the direction of, the project PI and forwarded to OR. Before signature by OR, the appropriate university contract administrator will review the report to determine if the PI is making sufficient progress toward his/her stated Small Business and Small Disadvantaged Business subcontracting goal. If he/she is not making sufficient progress and the contract administrator determines that potential qualifying businesses exist, he/she will direct the PI to the Purchasing Department to peruse the list of qualified bidders. The following forms are used to report on subcontracting plans: SF 294, Subcontracting for Individual Contracts and SF 295 and Summary Subcontract Report.

6.5 Acceptance of Grants and Contracts

Sponsored Programs staff can accept and/or acknowledge receipt of grants whose terms are standard, acceptable to the University, and which do not require signature acceptance by the university. Contracts that require the signature of a university official who is authorized to execute legally-binding documents are first reviewed by Sponsored Programs staff and signed by an authorized official for the Knoxville campus or forwarded for further legal and fiscal review and signature by a university vice president or president.

University-Wide Review/Signature -- University-wide review/signature is required for all sponsored program contracts with, or subcontracts to, foreign entities.

Campus Signature -- Two individuals within the Office of Research are authorized under University Fiscal Policy FI0420 to legally bind the Knoxville campus to sponsored program contracts: the Vice Chancellor for Research and the Associate Vice Chancellor for Research.