



Uncovering the Layers

OF FEDERAL REGULATIONS & POLICIES



Office of Contracts and Grants
UNIVERSITY OF COLORADO **BOULDER**

Be Boulder.

Presenter Introductions



Grant
Administration

OFFICE OF

Contracts & Grants

Throughout the lifecycle of an award, the Office of Contracts and Grants (OCG) partners with faculty, staff and students to obtain and manage external support for sponsored activities through our specialized regulatory and organizational expertise.

About Us

Kathryn O'Hayre

GRANT OFFICER, CRA
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GRANT OFFICER, CRA
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Overview

ROLE OF THE OCG GRANTS TEAM

THE LAYERS OF REGULATIONS & POLICIES

CASE STUDIES

CLOSING REMINDERS

ROLE OF THE OCG GRANTS TEAM

What Do Your Grant Officers Do?

OCG Grant Officers

Review award terms and conditions, negotiate when necessary, and formally accept grant agreements on behalf of the University. Grant Officers assist with award management as the administrative contact between the University and the sponsor.

ROLE OF THE OCG GRANTS TEAM

Providing Expertise on Award Terms & Conditions

**Review
Award
Terms &
Conditions**

**Award terms
& conditions**

**OMB Uniform Guidance
Federal Wide Terms & Conditions
Sponsor Regulations & Policies
University Policies**

Federal Government

March 2017

1948 - 2014

December 2014

**OMB
Circulars**

**OMB
Uniform
Guidance**

**Federal Wide
Terms &
Conditions**

eCFR.gov

THE LAYERS OF REGULATIONS & POLICIES

Sponsor & Award Document



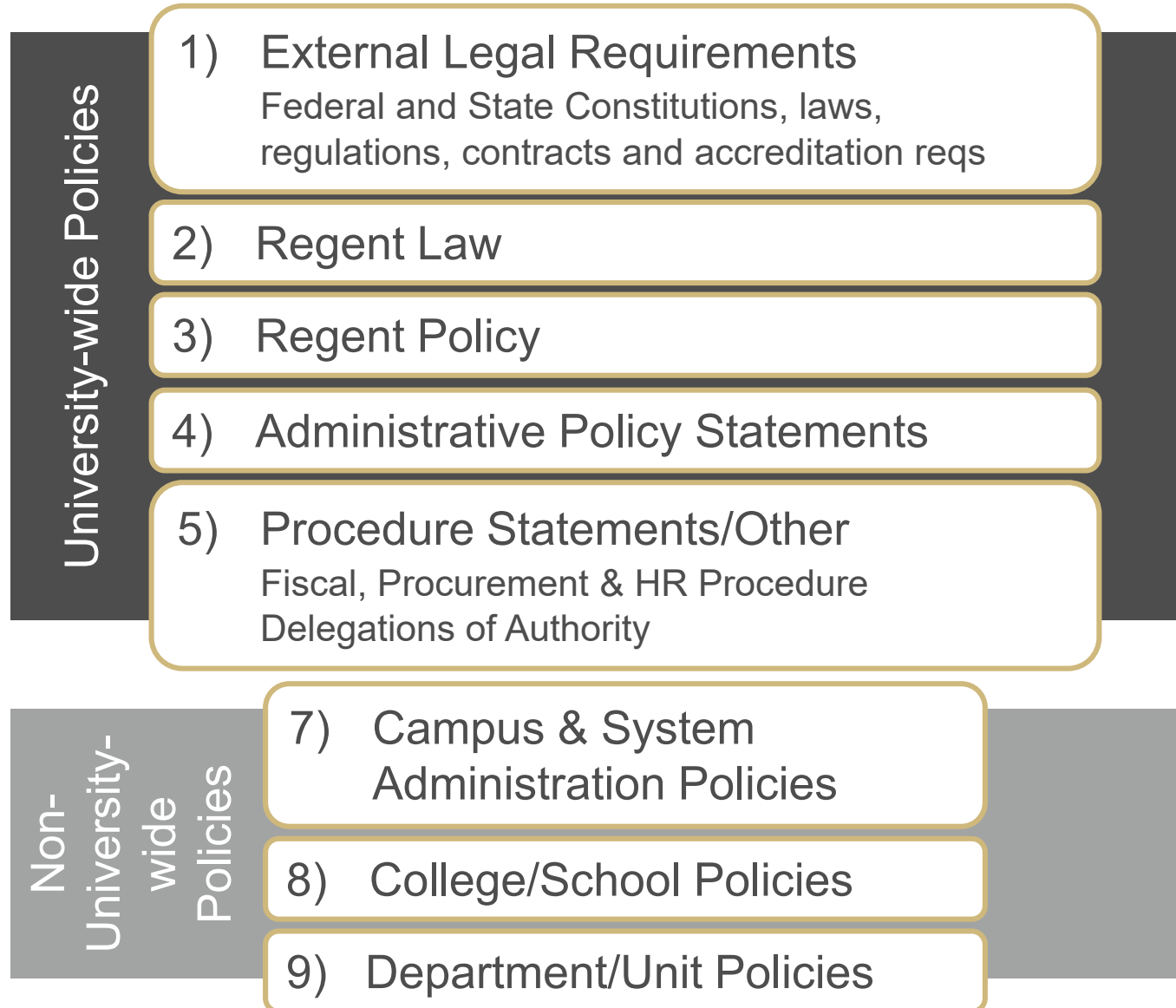
**Sponsor
Guidelines
& Policies**



**Award
Terms &
Conditions**

THE LAYERS OF REGULATIONS & POLICIES

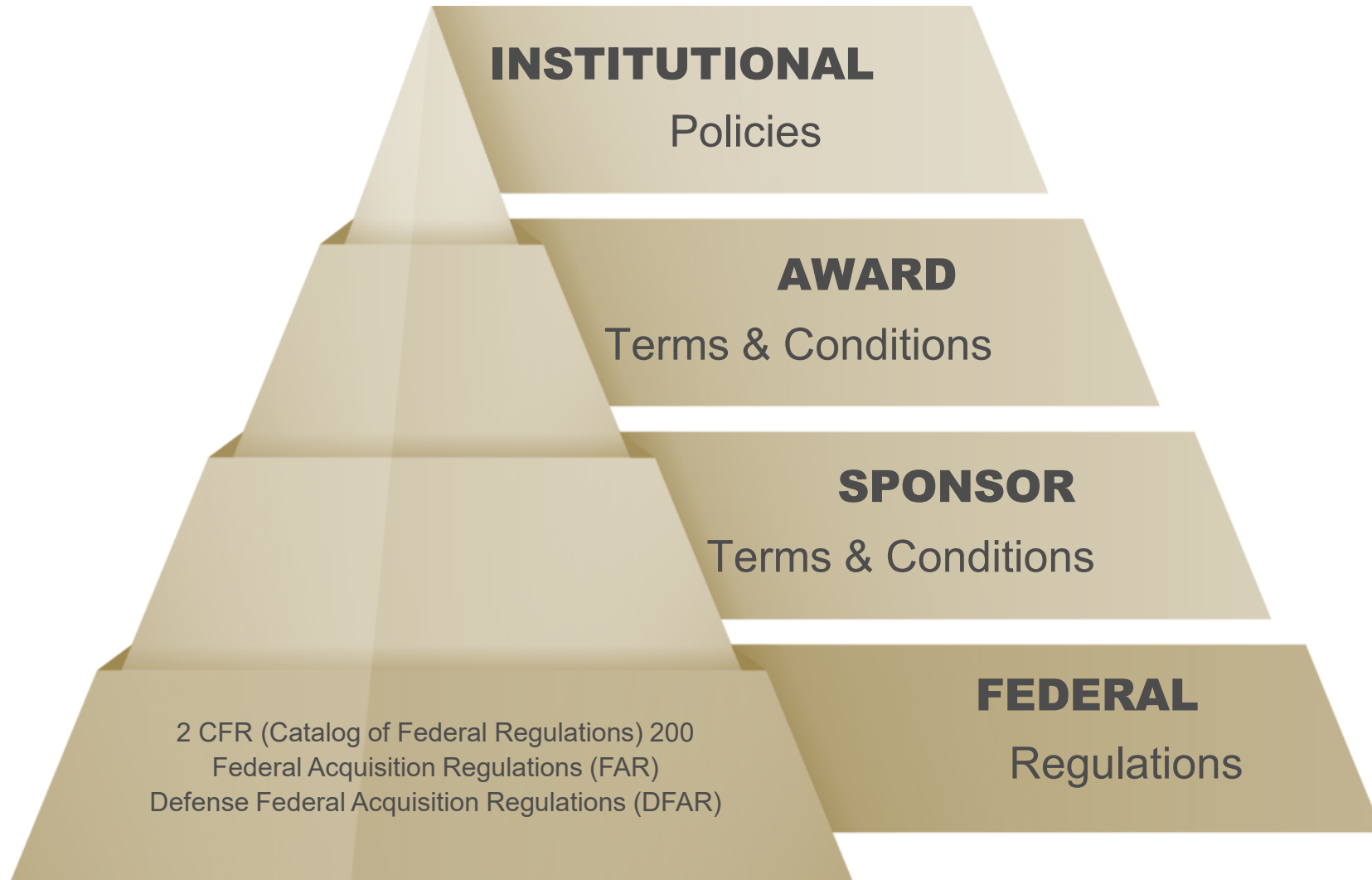
University Policies



6) Faculty Senate Constitution & Bylaws

THE LAYERS OF REGULATIONS & POLICIES

Order of Precedence



Case Studies

TUFTS | VISA COSTS

PRINCETON | PART 1: TRAVEL COSTS

PRINCETON | PART 2: PARTICIPANT SUPPORT

CU BOULDER HYPOTHETICAL SCENARIO

Unreasonable Visa Costs

Auditors said that Tufts had unreasonable visa costs on an NSF award. Tufts did not agree, however, that \$1,672 for premium visa processing fees should be disallowed. The university said that at the time (2013), it was reasonable and necessary to pay for expedited processing because standard visa processing time took an average of nine months. “Such a delay with the start date of the postdoctoral associate would have negatively impacted the project,” it said. It, therefore, requested additional consideration of \$1,672.

Response: OIG, for its part, was unpersuaded, and said that the additional information provided by Tufts does not change our view that these costs do not appear reasonable, and these costs could have been avoided with more prudent planning or other alternatives.

Unreasonable Visa Costs: Uniform Guidance

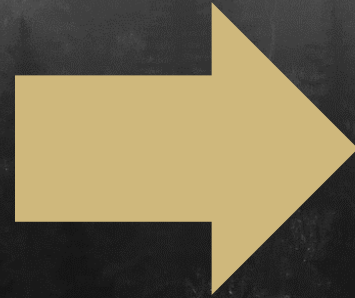
§200.463 Recruiting costs.

(d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. **For these costs to be directly charged to a Federal award, they must:**

- Be critical and necessary for the conduct of the project;
 - Be allowable under the applicable cost principles;
 - Be consistent with the non-Federal entity's cost accounting practices and non-Federal entity policy;
- Meet the definition of “direct cost” as described in the applicable cost principles.

Unreasonable Visa Costs: Federal Wide Terms & Conditions

**Silent on
Visa Costs**



**Therefore,
Uniform
Guidance
would apply**

Unreasonable Visa Costs: NSF PAPPG (Sponsor)

Reviewing Sponsor Policies

Passports and Visas

NSF assumes no responsibility for securing passports or visas required by any person because of participation in an NSF-supported project. For restrictions concerning directly charging visa costs to an NSF award, [see 2 CFR § 200.463](#).



Unreasonable Visa Costs: Award Terms & Conditions

Reviewing Award & Solicitation Documents

- Review award terms and conditions to determine if there are restrictions specific to this award
- Review the Funding Opportunity Announcement to determine if there are restrictions stated in the solicitation



Unreasonable Visa Costs: University Policy

Reviewing University Policy on Visa Costs

The Uniform Guidance categorizes visa costs as a recruitment cost (2 CFR 200.463). Therefore, in like circumstances, visa costs are limited to initial costs only.

Below is CU Boulder policy on rush visa or premium visa processing fees:

Can I charge a rush visa or premium visa processing fee to a sponsored project?

Rush or premium fees are not allowable as direct charges to a sponsored project. The department can pay for these fees through a departmental account.

<https://www.colorado.edu/controller/policies/cost-principles-sponsored-projects/inclusion-research-related-visa-costs-sponsored-projects>

Unreasonable, Unallowable Travel Costs

For two awards, auditors said that Princeton charged NSF for an upgrade to business class airfare that was not allowable in accordance with federal or university travel policies... Princeton employees did not receive adequate training in the relevant policies and procedures to ensure that travel expenses were appropriately reviewed and approved, auditors said.

Unallowable Participant Support Costs

Also, two Princeton employees on one NSF award were included as participants in the program. Auditors contended, however, that under the NSF PAPPG, only nonemployees can receive participant support funds.

Total Audit Response: Princeton agreed to refund \$2,202. It also stated that it will adjust future training to ensure the items noted by auditors are addressed.

Debrief

Be Cautious



You may unintentionally violate a policy/regulation

Reach Out



Contact your OCG Grant Officer for assistance

Patience



Finding the right answer may take time

CLOSING REMINDERS

Using *InfoEd*

1

Open the Awards tab within the Sponsored Project Record



Submissions (2)	+
Admin Staff (1)	+
Awards (4)	-
Personnel (1)	+
1 / 00 / 10-Apr-2018	+
Period 2	+
3 / 03 / 02-Dec-2019	+
F&A	
Setup	
Terms and Conditions	
Award AWD-17-12-0073	
Approvals (3)	+
Linkages	+
Deliverables (3)	+
Attachments (18)	+
Tasks (0)	

2

Click the Terms and Conditions Tab within the Awards tab



Terms and Conditions

NAME ?	DESCRIPTION
Disclaimer	Definition: This section has ultimate responsibility. Principal Investigator I of Contracts and Grant follow public laws, age For all NIH Awardthe M https://publicaccess.n
General Award Mgmt: FFATA	Definition: The FFATA capture and report sub
Prior Approvals: NCEs Require Prior Approval	Definition: Extensions
DOD General Terms and Conditions dated 9/2017	
Property Restrictions	Prior written approval
ACC-APG-RTP Division Assistance, Research Ts & Cs	Title to property acquisition request disposition ins <input type="checkbox"/> ACC-APG-RTP Division hereinafter referred to
Prior Approvals: NCEs Require Prior Approval	Must be submitted 20
Financial: 30 calendar days before next option	30 calendar days before option/increment to be

3

OCG Staff inputs information from the award document



Questions?

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irina.rastello@colorado.edu

Find the OCG Grant Officer for Your Department

WWW.COLORADO.EDU/OCG/DIRECTORY



Office of Contracts and Grants
UNIVERSITY OF COLORADO BOULDER

Be Boulder.

Department of Energy

Pre-Award Spending request for a DOE Cooperative Agreement. Issued by the Office of Energy Efficiency & Renewable Energy. Can we Pre-Spend at-risk?

Federal Regulations

NSF Prior Approval Matrix

Agency Wide T&C : DOE

Program Specific T&C : DE-EE

Award Special T&C



Federal Regulations

2 CFR 200.458 Pre-award costs

Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

Result: Inconclusive



Agency Wide Terms and Conditions: DOE

**DEPARTMENT OF ENERGY
STANDARD RESEARCH TERMS AND CONDITIONS
AGENCY SPECIFIC REQUIREMENTS
July 1, 2008**

The Standard Research General Terms and Conditions (T&Cs) are modified as follows:

1. Awards Covered by the Standard T&Cs

These terms and conditions are applicable to new and renewal research and research-related grants and cooperative agreements to institutions and non-profit organizations subject to 2CFR part 15.

2. Prior Approval Requirements Not Included in the Standard T&Cs

Unless specified in the award, no additional prior approvals are required.

3. Unallowable Direct Costs in Addition to Those in OMB Circulars A-21/A-122

Interest penalties for late payments to subawardees are not allowable costs under the award.

4. Contact Information for Technical Matters

Questions regarding technical matters should be referred to the DOE Project Officer identified in the Award.

5. Contact Information for Administrative Matters

Questions regarding administrative matters should be referred to the Contracting Officer or Award Administrator identified the Award.

Result: Inconclusive



Program Special Terms and Conditions



Office of Energy

FY19 BIOE

FUND

Funding Opportu

FOA Issue Date:
Submission Deadline for

ii. Pre-Award Costs

Selectees must request prior written approval to charge pre-award costs. Pre-award costs are those incurred prior to the effective date of the federal award directly pursuant to the negotiation and in anticipation of the federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the federal award and **only** with the written approval of the federal awarding agency, through the Contracting Officer assigned to the award.

Pre-award costs cannot be incurred prior to the Selection Official signing the Selection Statement and Analysis. Pre-award costs can only be incurred if such costs would be reimbursable under the agreement if incurred after award.

Pre-award expenditures are made at the Selectee's risk. EERE is not obligated to reimburse costs: (1) in the absence of appropriations; (2) if an award is not made; or (3) if an award is made for a lesser amount than the Selectee anticipated.

Result: Must Request Prior Approval



Award Special Terms and Conditions

U.S. DEPARTMENT OF
ENERGY | Energy Efficiency &
Renewable Energy

Special Terms and Conditions

The Recipient, wh
Energy Efficiency ;
Department of En
Agreement.

This Award consis
the parties have c
award modificatio

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The following are

- DOE Assist
<http://www>
- Research T
<http://www>

Award is to a university or non-profit).

- National Policy Assurances, to be incorporated as Award Terms in effect on date of award at <http://www.nsf.gov/awards/managing/rtc.jsp>.
- The Recipient's application/proposal as approved by EERE.
- Applicable program regulations at <http://www.eCFR.gov> (if applicable).

Term 31. Allowable Costs

EERE determines the allowability of costs through reference to 2 CFR part 200 as amended by 2 CFR part 910. All project costs must be allowable, allocable, and reasonable. The Recipient must document and maintain records of all project costs, including, but not limited to, the costs paid by Federal funds, costs claimed by its subrecipients and project costs that the Recipient claims as cost sharing, including in-kind contributions. The Recipient is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable and allocable, and comply with the cost principles. Upon request, the Recipient is required to provide such records to EERE. Such records are subject to audit. Failure to provide EERE adequate supporting documentation may result in a determination by the Contracting Officer that those costs are unallowable.

The Recipient is required to obtain the prior written approval of the Contracting Officer for any foreign travel costs.

Result: Inconclusive



NSF Prior Approval Matrix

Research Terms and Conditions Appendix A Prior Approval Matrix December 10, 2018					
	Reference	RTC Overlay	NSF	DOE	NIH
Prior Written Approval (prior approval)*	200.407				

Research Terms and Conditions Appendix A Prior Approval Matrix December 10, 2018

	Reference	RTC Overlay	NSF	DOE	NIH
Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization.	200.455	Required	Required	Required	Required
Participant support costs	200.407(t)				
Transfer of funds into the participant support cost category.	200.456	Waived	Waived ⁴	Waived	Required
Transfer of funds budgeted for participant support costs to other categories of expense.	200.308(c)(1)(v)	Required	Required	Required	Waived
Pre-award costs	200.407(u)				
Inclusion of allowable pre-award costs.	200.458	Waived	Waived	Waived	Waived
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
Rearrangement and reconversion costs	200.407(v)				
Subsequent incurrence or extension of 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
Transfer amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa.	200.308(d)(4)	Waived	Waived	Waived	Waived
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
Transfer of funds between construction and non-construction activities.	200.308(g)(5)	Required	Required	Required	Required
Real Property	200.407(e)				

Result: Prior Approval Waived?



Hot Topics

CDC Budget Deviation

NIH Diversity Supplement

Recruitment Costs GRA

NIH Career Award Salary Cap



Center for Disease Control

Budget Deviation Award Term:

SPECIAL TERMS AND REQUIREMENTS 1. Grantee will be permitted the following expanded authorities (AAGAM 3.05.105-3B): Carryover of unobligated balances, Extension of the final budget period of a project for up to 12 months, Redirecting budget funds up to 25% of the grant award (or a maximum of \$250,000) cumulative for each budget period when the federal share exceeds \$100,000/year as long as the scope of the project isn't changed. Grantee must keep their IRB Approval(s) valid continuously throughout the period of performance unless deemed exempt.

Result: CDC still required a justification for carryover based on their interpretation of the terms.



Recruitment Costs GRA

Uniform Guidance allows for general Recruitment Costs, such as advertising, operating costs, or supplies needed for an Open House.

However, CU Policy states that those costs should only be related to research faculty, associates and postdocs. Someone who is not essential to the project, like a GRA, the allowability of this cost is not extended.

<https://www.colorado.edu/controller/policies/cost-principles-sponsored-projects/inclusion-personnel-recruitment-costs-sponsored-projects>

Result: Institutional policy is more restrictive than the agency terms.



NIH Career Award Salary Cap

Award Notice lists Executive Salary levels, updated each year. Additionally, NIH awards typically allow budget deviation that does not effect the scope of work.

http://grants.nih.gov/grants/policy/salcap_summary.htm

Funding Opportunity Announcement lists Career program Salary Caps. Once you meet the cap, you cannot receive an annual Salary increase on the Career award.

<https://grants.nih.gov/grants/guide/contacts/parent-K99-CT-not-allowed.html>

Result: Although the award lists executive salary caps, the FOA is the most restrictive term and applies to the lifecycle management of the award.



NIH Diversity Supplement

Agency level: Budget deviation typically allowed that does not effect the scope of work.

Award special term: “This award provides support under the Research Supplements to Promote Diversity in Health-Related Research Program...restricted for the above purpose only and may not be transferred to any other individual.”

Result: Award terms are most restrictive and the funds remain restricted for the individual and the purpose for which the supplement is awarded. Separate speedtype and reporting for supplemental work and funds.

