



M309: International Awards from Both Sides of the Table

October 24, 2016

M309: Agenda

- Introductions
- Setting the stage
- Pre-award issues
- Negotiating the award
- Q & A

Note: This will be an interactive session, so please interrupt with questions!!

About the Speaker

- Duke University (25 yrs)
- Large, multidisciplinary, multi-institutional research projects
- NSF Engineering Research Center (11 yrs)
- Associate Dean, Engr
- Lead, ARRA Response Team
- Khalifa University (5 yrs)
- Established ORS
- Established Sponsored Research Accounting ERP
- Building compliance programs
- Building team(s)
- Human Capacity Development

International Awards

- Global research is here to stay
 - Increasing number of RFPs require international partnerships or collaborations
 - Continued focus on global health with implications across borders, e.g., HIV/Aids, SARS, MERS, Zika
 - Increased cross border concerns that require new technologies and international cooperation, e.g., cybersecurity, energy security, border security, etc.
 - Budget realities drive agency pay-lines lower, making PIs resourceful in seeking research funding

M309: Learning Objectives

After attending this session, attendees will be able:

- To develop a set of questions for PIs at the proposal stage relating to the proposed international collaborator
- To identify the potential compliance and operational issues which may create difficulties in negotiating the award
- To deploy strategies which may resolve differences between Parties while still maintain the integrity of each Party's operational framework.
- To develop a an inventory of questions for their international counterpart at the outset of the award negotiation

Pre-submission Stage

- You want to submit a proposal with who?
- Where is that?
- Why??
- Do you really need to include them?
- Do you know this guy?
- How did you get into this project?

You want to do research where???



KU Agreements in 3 years

- Spain
- Germany
- Singapore
- Korea
- Egypt
- Dubai
- Sharjah
- Abu Dhabi
- Switzerland
- China
- Czech Republic
- Italy
- United Kingdom
- Japan
- France
- Georgia
- California
- Texas
- Pennsylvania
- North Carolina
- Massachusetts

Proposal Development

- Who is the lead institution?
- Who is the sponsor and what are the rules?
- Are you (really) eligible to participate?
- Can funding move both ways?
- Are there any potential compliance issues to raise before submission?
- What are the potential risks to your dept, school, institution?

Proposal Development

- Strategy 1: submit proposal as usual and defer all the issues to when and if an award is made
- Strategy 2: outline challenges and leave documentation in file for action in case potential award
- Strategy 3: incorporate solutions into the proposal to be submitted in anticipation of issues.

Issues to Anticipate: US lead institution

- Does the sponsor allow the transfer of funds overseas?
- What kind of award will be issued?
- Does the proposed research have export control considerations?
- Credentials and viability of the collaborator and the partner institution
- Can the partner deliver?

Issues to Anticipate: Foreign lead institution

- Does the sponsor allow the transfer of funds overseas?
- Are there limitations that conflict with US partner's ability to participate?
- What kind of award will be issued?
- Does the proposed research have export control considerations?
- Credentials and viability of the collaborator and the partner institution?

Infrastructure: does it exist?

- Does the PI's institution have an ORS and does s/he have a grant administrator?
- Does the PI institution have the ability to accept funds in a separate bank account?
- Does the PI institution have the ability to segregate, track, and report on research funding?
- Will the PI have full control of the funding?

Issues to consider

- Who is negotiating the award?
- Who will sign the award document?
- Who has institutional authority to sign?
- Does the subawardee have other research contracts and grants?
- Can the subaward institution provide references of administrative abilities?

Negotiating Options

- One side gives in
- Create bilateral language
- Find an alternative
- Stay silent on a contentious issue
- Agree to disagree and end unsuccessfully

Sticky Issues

- Invoicing
- Governing Law
- Warranties
- Payment Schedules
- Publication review
- Export Controls
- Currency / Exchange Rates
- Sampling size

Intellectual Property

- T&C will be dictated from the main award
- US institutions: rigid and generally little room for negotiations
- Foreign institutions: open to negotiations and willing to agree to joint ownership and sometimes for NERF use

Export Control Stalemate

- 15.2 Export Controls. Contractor and Sponsor acknowledge that the laws and regulations of the United States and the United Arab Emirates may restrict the export and re-export of technology and technical data. Contractor and Sponsor agree to comply with all applicable United States and United Arab Emirates export control laws and regulations. Contractor agrees to provide Sponsor with any information needed to classify the export control status of technology or technical data provided.
- 15.3 Foreign Nationals. Contractor's engagement of foreign nationals—persons who are not U.S. citizens or U.S. permanent residents—in any Research Services or any other activities covered under or supported by this Contract will be in accordance with Exhibit E [representation from personnel]. Under no circumstances will Contractor allow a foreign national to engage in Research Services or other activities covered under or supported by this Contract without express written approval from KU.

Export Control Solution

- 15.2 Export Controls. Contractor and Sponsor acknowledge that the laws and regulations of the United States and the United Arab Emirates may restrict the export and re-export of technology and technical data. Contractor and Sponsor agree to comply with all applicable export control laws and regulations. Contractor agrees to provide Sponsor with any information needed to classify the export control status of technology or technical data provided.
- Omission of 15.3 was contingent on the budget changes by the Subcontractor

Typical EEOC Language

- Nondiscrimination. Both Parties are committed to the policy that, subject to applicable laws, statutes, codes, or guidelines, all persons shall have equal access to programs, facilities, admission, and employment without regard to personal characteristics not related to ability, performance, or qualifications as determined by the respective policies of State University and Khalifa, or by government authorities. Neither Party discriminates against any person on the basis of that person's age, race, color, ancestry, national origin, religion, creed, service in uniformed services, veteran status, sex, sexual orientation, marital or family status, pregnancy, pregnancy-related conditions, physical or mental disability, gender, perceived gender, gender identity, genetic information or political ideas. Both Parties shall abide by these principles in the administration of this award, and neither Party shall impose criteria on any scholars, faculty, students or staff which would violate these principles of nondiscrimination. Nothing herein shall be deemed to create any obligation for either Party to violate any applicable law, statute, code or guideline in order to provide such access.

Modified EEOC Language

- Nondiscrimination. Both Parties are committed to the policy that, subject to applicable laws, statutes, codes, or guidelines, all persons shall have equal access to programs, facilities, admission, and employment without regard to personal characteristics not related to ability, performance, or qualifications as determined by the respective policies of State University and Khalifa, or by government authorities. Nothing herein shall be deemed to create any obligation for either Party to violate any applicable law, statute, code or guideline in order to provide such access.

Cost Sharing

- US institutions prefer to cost share only when required by RFP
- Foreign institutions may have a different ability (positive or negative) to cost share
- No new money cost share

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THANK YOU!

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