Award Document is Received

Sponsor

Sponsor sends Notice of Award

→

OSPA

OSPA reviews award document for terms and conditions
Negotiating Terms and Conditions of Awards

- Occurs between the sponsor and OSPA officers, if OSPA determines that the award document contains conditions that conflict with important interests of the University.
- Generally, terms are negotiated to meet the following goals of the university:
  - Maintaining control of its work and work product;
  - Ensuring its compliance with appropriate legal requirements;
  - Minimizing its risk of liability in the performance of its activities.
Following are some of the areas in which negotiation typically occurs:

- Costs and Payments
- Intellectual Property (IP)
- Publications
- Warranty Disclaimer and Limitation of Liability
- Indemnification
- Termination
- Project Reports
- Financial Reports
Costs and Payments

• Should be specified and determined by the investigator’s performance of the scope of work and not by provision of particular results
• Negotiated schedule of payments may reflect the fiscal integrity and history of the sponsor
  • Accelerating payment where timely payment may appear less certain or where GSU may have to otherwise advance substantial funds
Billing and Contract Types

Billing Type
- Cost Reimbursement
- Fixed Payment

Contract Type
- Cost Reimbursable
- Fixed Price

Billing Type vs Contact Type
- **Billing Type** refers to the process by which GSU will receive payment from sponsors.
- **Contract Type** defines broad budgetary restrictions established by sponsors.
# Billing and Contract Types

**Billing Type**
- Cost Reimbursement
- Fixed Payment

**Contract Type**
- Cost Reimbursable
- Fixed Price

**Billing Type**
- **Cost Reimbursement**: requires GSU to provide the sponsor with an invoice detailing actual costs on the project for which reimbursement is requested.
- **Fixed Payment**: requires GSU to request from sponsor payments established by a calendar cycle or by the realization of project milestones.
# Billing and Contract Types

<table>
<thead>
<tr>
<th>Billing Type</th>
<th>Contract Type</th>
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</thead>
<tbody>
<tr>
<td>- Cost Reimbursement</td>
<td>- <strong>Cost Reimbursable</strong> will provide reimbursement to GSU for only allowable expenses that are properly allocated to the project. There are never residual funds available at the conclusion of a cost reimbursable contract type award.</td>
</tr>
<tr>
<td>- Fixed Payment</td>
<td></td>
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<tr>
<td><strong>Contract Type</strong></td>
<td></td>
</tr>
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<tr>
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</tr>
</tbody>
</table>
Billing and Contract Types

Billing Type
- Cost Reimbursement
- Fixed Payment

Contract Type
- Fixed Price - will reimburse GSU upon the completion and delivery of specific services/items to the sponsor, regardless of the actual cost to the University of providing those deliverables. Unexpended funds at the project’s conclusion may be transferred to a residual account in accord with the appropriate GSU and School/Department policies.
Intellectual Property (IP)

Intellectual Property

- Intellectual Property provisions are designed to protect the investigator's right to:
  - discuss and publish research findings;
  - and to manage and protect the property rights of the university and the investigator.
- Primary forms of intellectual property
  - data,
  - things that could be copyrighted (writings, drawings, software, etc.),
  - inventions.
## Intellectual Property (IP)

<table>
<thead>
<tr>
<th>Intellectual Property</th>
<th>Background IP</th>
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<tbody>
<tr>
<td><strong>Background IP</strong></td>
<td>- Background IP is IP available to either party that is brought into the current research.</td>
</tr>
<tr>
<td>Ownership of IP</td>
<td>- Parties formally grant each the right to use that IP only for that research project.</td>
</tr>
<tr>
<td>Licenses to IP</td>
<td>- GSU will not guarantee to a sponsor that any background IP is under its legal control.</td>
</tr>
</tbody>
</table>
Intellectual Property (IP)

Ownership of IP

- Ownership is retained by GSU if the IP is invented by the GSU investigator.
- Ensures that GSU can manage the IP in accord with its mission to develop and provide knowledge for public benefit.
- If a sponsor was provided ownership of GSU IP, the sponsor could decide shelve the invention, preventing its public use.
- Bayh-Dole Act requires that GSU own and develop inventions created under federally-funded projects.
Intellectual Property (IP)

Licenses to IP

- Licenses take a variety of forms.
- GSU will generally grant a limited license allowing nonexclusive use of GSU IP at no cost for educational and research purposes.
  - Preserves the university's ability to seek commercial application of the invention.
- All that can be provided for commercial use in an agreement is an option to negotiate a commercial use license.
  - Because the value of a license is unknown at the time of agreement
- GSU generally avoids granting the right to sub-license any license
Publications

Publications

- GSU investigators must be able to freely discuss and distribute
  the results of research.
- To ensure that the university’s research remains
  curiosity-driven and for the public benefit.
Publications

Position

- The university will accept some very limited restrictions on publication rights.
- Sponsors can be provided copies to review for the existence and removal of proprietary or confidential information.
- Publication can be delayed for reasonable periods of time to permit the sponsor to seek patent protection or to allow an appropriate coordination of publication results among the members.
Position

- Granting more significant publication restrictions would interfere with the university’s ability to employ the fundamental research exclusion barring the enforcement of export control laws.
Warranty and Indemnification

<table>
<thead>
<tr>
<th>Warranty</th>
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<tbody>
<tr>
<td>Indemnification</td>
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</table>

Warranty Disclaimer and Limitation of Liability

- Notes the university's inability to accept responsibility for infringement of others' intellectual property rights.
- Notes the university's lack of responsibility for the downstream use of any IP developed by the university and then commercialized.
  - Protect the university from legal actions which could have almost limitless financial consequences, taken by the commercializing entity, over which the university has no control.
Warranty and Indemnification

Indemnification

- A term meaning that one party will defend the other if the other is sued.
- GSU limits its indemnification responsibilities to those actions over which it has or should have control.
  - GSU will indemnify for the wrongful actions of our employees but will not indemnify for the Sponsor’s use of GSU’s data or research results.
  - As a state institution, GSU cannot agree to “hold harmless” any other party in an agreement.
  - Offer language ensuring that each party is responsible for its own actions and harms.
Termination

- Allows each party to leave the agreement at will.
- GSU usually seeks 30 to 60 days notice and requires that the clause operate mutually.
- GSU will request that the sponsor remain responsible for non-cancelable commitments (which are usually graduate student stipends) when the sponsor initiates early termination.
Reports

- Project Reports milestones and timelines will be discussed with the PI to ensure that terms are reasonable and can be met.
- Financial Reports ideally will be due no sooner than 90 days post-termination to provide the department time to fully invoice on the project. Due dates of fewer than 60 days post-termination are nearly impossible to meet because of the possibility of late invoicing and of process limitations within the Spectrum financial system.
Compliance Check

OSPA

OSPA staff will check for any compliance protocols, approvals, and/or management plans that may be required.
Compliance and Safety

- The PI must complete the approval process with the applicable oversight committee or office.
  - Human Subjects (IRB)
  - Animal Subjects (IACUC)
  - Laboratory and Environmental Safety
  - Biosafety
  - Radiation Safety
  - Chemical Safety

- [http://ursa.research.gsu.edu](http://ursa.research.gsu.edu), then click Compliance and Safety Tab
Budget Setup

PI/GCO

Provide a compliant budget for account set up.

OSPA

Create itemized budget within Spectrum.
Budget Setup

- OSPA staff will request from local administrators budget information for account setup that meets two primary purposes:
  - Compliance with the sponsor's requirements and PI access to the funds for all allowable expenditure activities.
  - Depending on the award terms, the account lines will be set up to control at either the full budget amount or the amount on each budget line.

For more information regarding detailed budget line items please view the [Actuals Drilldown Tutorial](#).
Budget Setup

- Spectrum budgets are rarely established to control spending on each budget line.
  - Allowing those individual lines, although not the full budget, to be overspent.
- Spectrum is used to ensure compliance with award terms;
- Detailed tracking of sponsored budgets is should be done using separate Excel worksheets,
- Worksheets can also provide budget forecasting and tracking of unencumbered obligations, and
- Worksheets need to be reconciled monthly against the actual spending posted in Spectrum.
- For more information about budget reconciliation please view the Expenditure Review Module.
Cost Share Accounts

Cost share accounts are established, if needed.
Cost Share

- Cost sharing is a contractual obligation committing the University to share in the costs of a sponsored project.
- Cost sharing represents that portion of the total project costs not borne by the Sponsor.
  - Typically in the form of an actual cash expenditure of funds and not “in-kind” contributions to a project.
- Cost matching occurs when the sponsor requires the University to match grant funds in some proportion with funds from another party,
  - either from the University or another sponsor (with both sponsors’ approval).
- Matching requirements may be in the form of actual cash expenditure of funds or may be an “in-kind” match.
  - In-kind: the value of non-cash contributions to the project.
Cost Share

- When a Principal Investigator (PI) proposes, and the University agrees to cost share University resources, the University is required to provide the stated resources in the performance of the awarded project.
- This commitment must be indicated on the Proposal Routing Form. By signing the Proposal Routing Form, the department chair, Dean or designee approves the cost sharing commitment.
Cost Share

- Implicit in the University’s commitment to cost share is the PI’s agreement to ensure that:
  - voluntary cost sharing is permitted by the particular sponsor and project for which it is being proposed;
  - funds are available for cost-shared direct costs;
  - once awarded, cost-shared expenses will be appropriately charged, tracked and accounted for in compliance with University and sponsor requirements;
  - PI will certify these expenditures in the same manner as all sponsored project spending.
Requesting Cost Share

- Department works with head financial person to select source of funds.
  - Cannot be another sponsored project.
- The head financial person will then submit a request to the budget office to set up a companion cost share account number.
- The budget office works with OSPA to assign a speedtype that correlates with the appropriate sponsored project.
  - Example
    - Sponsored Project- SP00012345
    - Companion Cost Share- GC00012345
Pre-Award/Advance Account

- An advance account permits spending prior to and in anticipation of an official Notice of Award. Usually, advance accounts should not be utilized more than 90 days prior to the anticipated start date of a project, recognizing the expanded authority for such spending permitted on most federal awards.
- The department must assume financial responsibility if the sponsor fails to fund the award or disallows any of the advance expenditures, providing a guarantee account for all such unfunded expenditures.
Requesting a Pre-Award/Advance Account

- An advance project number may be requested using the Advance Account form in the Research Portal. The form must include the approval of the PI/PD and an individual authorized to commit expenditures on the guarantee account (usually a department chair or chair’s designee).
- Included on this form is a statement of assurance that commits the department to reimburse project accounts in the event that the expected sponsor authorization is not provided.
- Only in rare circumstances, requiring approval of the OSPA Director, can advance accounts be used to fund subcontracts.
Account Created/NOAA Sent

OSPA

Account Created
Speedtype (Project Number) Issued

PI/GCO

Notice of Award
Acceptance Sent to the Department
Steps for Accepting an Award

- Award document is received and routed through Research Portal
- OSPA reviews Terms and Conditions, confirms PI acceptance
- OSPA negotiates any unacceptable terms
- OSPA checks for compliance protocols, approvals, and/or management plans
- PI/administrator provide compliant budget for account setup
- Cost share accounts established, if needed
- Financial account created by OSPA
- Notice of Accepted Award sent to PI and administrators
Thank you for watching

research@gsu.edu

http://ursa.research.gsu.edu/