

The background of the slide is a solid red color. In the top left corner, the word "RUTGERS" is written in a large, white, serif font. Below it, in a smaller, white, sans-serif font, are the words "THE STATE UNIVERSITY OF NEW JERSEY". A large, faint, circular seal of Rutgers University is visible in the background, centered behind the text. The seal features a sunburst design in the center and the words "RUTGERS THE STATE UNIVERSITY" around the perimeter.

RUTGERS

THE STATE UNIVERSITY
OF NEW JERSEY

Brown Bag Breakfast Briefing: Federal Contracts

Contracts (Research)

Purpose

- To acquire goods or services for direct benefit or use for the sponsor, **and** public as a benefit objective for institution
- To provide an objective, documented roadmap for understanding the research activity, specifying requirements related to the research activity (reports, publication, invoicing, etc.) and defining processes to resolving disputes

Contract Types

- Contract Types differ by sponsor (federal, non-profits, pharmaceutical/for-profits) and by project type (agency/sponsor-initiated vs. investigator-initiated)
 - Clinical Trial Agreements (CTA)
 - Material Transfer Agreement (MTA)
 - Sponsored Research Agreements
 - Research Service Agreements

Grant vs. Contract

| | Grant | Contract |
|-----------------------|--|---|
| Project conceived by: | Investigator | Agency/Sponsor (generally) |
| Agency function: | To support or assist | To procure goods or services |
| Control: | Performer defines details and retains scientific freedom | Agency/sponsor generally exercises direction or control |
| Agency oversight: | Maintains cognizance | Closely monitors |

| | Grant | Cooperative Agreement | Contract |
|-------------------------------|---|--|---|
| Basic Purpose | Provides Assistance with few restrictions | Provides assistance with substantial involvement between parties | Procure tangible goods and services |
| Solicitation Method | Application kit or guidelines | Request for Applications (RFA) | Request for Proposal (RFP) for federal contracts |
| Award Instrument | Short, may refer to general conditions | Describes involvement, part relationships | Long, detailed specs, clauses, regulations, and expected results |
| Involvement by Sponsor | Generally none | Substantial | May be extensive |
| Rebudgeting | Flexible | Usually flexible | More restrictive |
| Equipment Title | Grantee | Varies | Varies |
| Performance Period | Specified in grant | Specified in coop agreement | Specified in contract |
| Patent Rights | Generally liberal | May be involved | Provision in contract |
| Publications | May ask to be informed | May ask to be informed | Prior review (timeframe more restrictive for clinical trial agreements) |
| Technical | Annual summary report | Frequent reports | Detailed, maybe frequent |

Important Contract Elements/Provisions

- “Standard” contract – 12-15 sections and about 10-12 pages in length
- Federal contracts differ in length, scope and format from non-federal contracts
- Most important sections: confidentiality, publication, intellectual property, budget/payment schedule.
- Others: termination, data ownership, use of name

Other Important Contracting Issues

- Termination – reciprocal right, incurred expenses coverage
- Data ownership – critical for Sponsored Research Agreements and investigator-initiated projects
- Use of name – Generally prohibited except for federal registries (clinicaltrials.gov), required reporting and some publications. Commercial purposes almost always prohibited
- Special issues – non-disclosure provisions

Summary of the contracting process.

- Solicitation – request for proposal with a scope of work
- Proposal – bid / offer
- Negotiation – acceptance
- Contract – mutual legal relationship
- Implementation – performance
- Payment – consideration
- Closeout – acceptance

Federal Acquisition Regulations (FAR)

- The FAR is the underlying regulation for ALL Federal contracts
- The FAR is the policy and procedure manual for federal contract officers on how to construct a contract. It is written by and for federal employees
- FAR is Title 48 of the Code of Federal Regulations (CFR). The CFR reflects the implementation of the United States Code (USC), which represents laws of the United States.

Structure and Numbering system

- 02-52.227.7039
 - Chapter - 2
 - Part - 52
 - Subpart – 2
 - Section - 27
 - Subsection – 7039
- Part 52 of each Chapter is where one finds the full text of all of the clauses referenced in the contract. Parts 1-51 include the discussion and instruction as to when particular clauses are to be used.

Cost Proposals

- Salary, Wages and Benefits
- Equipment
- Travel
- Subcontracts
- Other Direct Costs
- F&A
- Inflation Factors
- Unallowable Costs – CFR 220 (OMB A-21)
- Human or Animal Subjects, & Conflict of Interests
- Cost Sharing

Contract Issues

- Payment and invoicing
 - Cost reimbursable, Fixed Price, Incrementally Funded
 - Format, frequency
- Subcontracting Plan
 - >\$500,000
 - Small, minority and women owned businesses
- Title of Equipment
- Intellectual Property
- Termination
-

Advanced Contract Issues

- Export Controls
- Foreign Nationals
- Patent Indemnification
- Subcontracts
 - Vendors vs. Subawards
- Pre-Award Costs – typically not allowed
- Flow-Thru funding requires terms to follow money
- Deviation
- Disputes

Contract Administration

- Period of Performance
- Invoicing
- Deliverables / Milestones
- Property Management
- Changes
- Cost Overruns
- Reports
 - Subcontracting Plan
 - Technical
 - Property / Intellectual Property
 - Financial

Audit Overview

- Audits
 - Financial
 - Property System
 - Purchasing System
 - Technical
 - Compliance
- Record Retention