MSU’s Financial Administrator Development Program

Award Process

Twila Fisher Reighley
Assistant Vice President for Research and Graduate Studies

and

David Tuthill
Sponsored Programs Administrator – Office of Sponsored Programs
Agenda

• Introduction
• Award Funding Types
• Award Process Overview
• Negotiations and Common Contractual Issues
Sponsored Programs Administration
(Preaward and Postaward Administration)

Dr. Stephen Hsu
Vice President for Research and Graduate Studies

Mark Haas
Vice President for Finance and Treasurer

Twila Fisher Reighley
Assistant Vice President for Research and Graduate Studies
Sponsored Programs Administration

Tracy Halloran
Administrative Assistant

Office of Sponsored Programs
(Preaward)

Katherine Cook
Director

Michelle Davis
Front Office

*Sally Becker
(Plus .25 FTE)
Front Office

Contract & Grant Administration
(Postaward)

Dan Evon
Director

*Hima Pasapula
Information Technology

*Jennifer Lafferty
Training Coordinator
(SPA, OSP, CGA)

*Kenneth Jensen
Information Technologist II

*Jodi Heilste
Information Technologist I

*Scott Foreman
Information Tech. II

Katie Winkler
Sponsored Program Administrator & Training Manager

Erin Schlicher
Sponsored Program Administrator and Financial & Data Analyst

*Shannon Lutz
Sponsored Program Administrator & Training Program Assistant

* (asterisks) represent staff with joint appointments supporting OSP and/or CGA

3/30/2016
Office of Sponsored Programs (OSP)
(Preaward Administration)

Katherine Cook  
Office of Sponsored Programs  
Director

Laura Johnston  
Assistant Director

Vicki Spencer  
Assistant Director

Proposals

Maria Skinner  
Manager

Amanda Blank  
Senior Proposal Administrator

Diana Kalczynski  
Proposal Administrator

PT 1

PT 2

Pat Hampton  
Proposal Administrator

Theresa Young  
Senior Proposal Administrator

Craig O’Neill  
Manager

Gladys Raymond  
Manager

PT 1

PT 2

C1

Amee Wilson  
Agreement Administrator

David Tufill  
Agreement Administrator

Julie Zolni  
Agreement Administrator

Marilou Clary  
Agreement Administrator

C2

Stephanie Bagaloff  
Award Specialist

James Bliss  
Award Specialist

Adam Stone  
*Award Specialist

Marne Olds  
Award Specialist

*Position provides support to both Contract Teams  
Refer to SPA Org. Chart for all supportive services

Michelle Davis  
Office Assistant

**Mike Litteral on assignment to the Research Admin Project Team

Updated on 3/30/2016
Post-Award - Contract & Grant Administration (CGA)
Room 2 Admin Bldg (517) 355-5040 Fax 353-9812 cga.msu.edu

Dan Evon
Director
884-4234

Evonne Pedawi
Assistant Director
884-4272

Shared activities supporting CGA and/or CSP

Front Office
Sally Becker
894-4232

Awards Group
Stacy Salisbury, Manager
884-4252

Jeanette Dubendorf: 884-4249
Stephanie Hay: 884-4253
Sharon Hibbard: 884-4235*
Jenny Rivers: 884-6859
Ashley Russell: 884-6858
Cindy Sweeney: 884-4242
Open Position: 884-4280
*Effort Reporting

Transactions Group
Kristy Smith, Manager
884-4247

Transactions Group Responsibilities:
Conducts pre and post audit of RC account expenses including, SAP redistribution and payroll transfers > 60 days, international travel, cost transfers, domestic and non-resident personal service contracts, equipment and subcontract payments. Email address for the Transactions Group is: 
Transactions@cga.msu.edu.

Dana Applebee: 884-4276
Jennifer Hunter: 884-4254
Nate Parks: 884-4268
Julie Pohl: 884-4245
Jarrod Thornton: 884-7893
AJ Scherrer: 884-4271

Reports Group
Kasey Schieller, Manager
884-4269

Reports Group Responsibilities:
Prepare invoices and financial reports for cost reimbursable and fixed price accounts, monitor cost share, prepare expense estimates, closeout of non LOC RC accounts, service center rate review. Email address for the Reports Group is:
Reports@cga.msu.edu.

Denise Lator: 884-4277
Jessica Lemke: 884-4281
Kirk Rennaker: 884-4287
Brian Schafer: 884-4265
Katie VanDy: 884-4291
Open Position: 884-4284

Cash Management Group
Andrew Cascadden, Manager 884-4283

Jeff Banghart: 884-4240
Meghan Cartwright: 884-4267
Shelby Fisal: 884-4261
Ryan Kelemen: 884-4255
Amanda Rinno: 884-4233
Roger Gray: 884-4196**
**Joint with Financial Analysis

Cash Management Group Responsibilities:
Letter of credit (LOC) draws and related agency reporting, deposits, account receivable follow-up on invoices, financial reporting, closeouts on RG and LOC RC accounts, service center rate review. Email address for the Cash Management Group is:
CashManagement@cga.msu.edu.

Help Desk: In the event you are unsure who to contact in CGA, please contact the Awards Group.

CGA 3-23-2016
FY15 Award Funding
Total Awards: $584,128,630

Awards Administered through Advancement, $90M, 15%

Awards Administered through OSP/BC/CGA, $494M, 85%

Federal Government, $382M, 77%
Foundation, $45M, 9%
State of MI, $22M, 5%
Association, $4M, 1%
Industry, $17M, 3%
Other, $24M, 5%

NOTES: Award dollars are from the June 2015 Board of Trustees Report. The breakdown of Sponsor type is based on Federal Prime or Direct Sponsor. The first pie chart reflects the system of record. The smaller pie chart reflects the breakdown of sponsor type without Various Donors.
OSP=Office of Sponsored Programs, BC=Business-CONNECT, CGA=Contract and Grant Administration
80% of the award funding administered through OSP/CGA/BC is for research projects; 67% is for federal research.
NOTES: Award dollars consistent with the June 2015 Board of Trustees Report. Award Type distribution based on large sample.
What Do We Define as Gifts at MSU?

Gifts are:
- Voluntary transfer of funds or property
- By a person or organization to MSU without compensation
- May be for a stated purpose, but no contractual requirements are imposed
- Do not include award or income from a governmental entity (i.e. federal, state, local government)

When giving a gift, a donor will NOT:
- Exercise control over the funds;
- Specify (more than generally) how the funds may be spent;
- Receive a direct tangible benefit from the gift (deliverable)
Processing Gifts

Gifts are processed by the Office of University Advancement to ensure that:

• They are properly receipted and recorded.
• Each donor receives prompt and appropriate acknowledgment.
• Members of the Board of Trustees and others are kept fully informed.
• A central record is maintained on all gifts.
• Inquiries may be directed to University Advancement.
What If I Receive a Research Gift?*

Gifts for research
≤$5,000
to University Advancement with required information

Gifts for research
> $5,000
to CGA with appropriate forms

*See MSU’s Manual of Business Procedures (MBP) Section 315, III.B.
## Award Funding Types

<table>
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<th>Types of Funding</th>
<th>Types of Awards (Award Mechanism)</th>
<th>Who Processes</th>
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<td>Gifts</td>
<td>Gifts</td>
<td>Primarily University Advancement (if research gifts, OSP/CGA also)</td>
</tr>
<tr>
<td>Sponsored Projects (Sponsored Programs)</td>
<td>Grants</td>
<td>OSP</td>
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<td></td>
<td>Cooperative Agreements</td>
<td>OSP</td>
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<td></td>
<td>Contracts (including Testing)</td>
<td>OSP and Business-CONNECT (B-C)</td>
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</table>
What Is a Sponsored Project?*

A sponsored project is:

• Funded by an external entity
• For a specific scope of work and/or purpose
• Generally benefits the public and/or sponsor.

The funding generally:

• Results from a proposal submitted by a faculty member and
• May address the specific need/mission of the sponsor

*Sponsored projects are also called sponsored programs.
### What Is a Sponsored Project? (continued)

A sponsored project may be funded through:

- Grant
- Cooperative agreement
- Contract

All of the above funding mechanisms are binding agreements

The sponsor may:

- Exercise control over the funds
- Specify how the funds may be spent
- Receive a direct, tangible benefit from the project (deliverable)
FY 2015 Sponsored Project Awards by Sponsor

- Federal, $382M, 77%
- Non-Federal, $113M, 23%

NOTES: Award numbers consistent with June Board Report - Break out uses Federal Prime or Direct Sponsor.
Who Funds Sponsored Projects?

- Federal Government (NIH, NSF, USDA, DOE, USAID, DOD)*
- State and Local Governments (State of Michigan, Ingham County)
- Foundations (Gates Foundation)
- Non-Profit Organizations (American Cancer Society)
- Industry (Ford Motor Company)
- Foreign Organizations

*National Institutes of Health (NIH), National Science Foundation (NSF), United States Department of Agriculture (USDA), Department of Energy (DOE), U.S. Agency for International Development (USAID), Department of Defense (DOD)
# Grants, Cooperative Agreements, & Contracts

<table>
<thead>
<tr>
<th>Provided As</th>
<th>Grants</th>
<th>Cooperative Agreements</th>
<th>Contracts</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Financial Assistance</td>
<td></td>
<td>Procurement</td>
</tr>
<tr>
<td>Principal Purpose</td>
<td>Fulfill a public purpose of support or stimulation</td>
<td>Acquire property or services</td>
<td></td>
</tr>
<tr>
<td>Level of Sponsor Involvement</td>
<td>Substantial involvement NOT expected</td>
<td>Substantial involvement expected</td>
<td>Major involvement expected</td>
</tr>
<tr>
<td>Example</td>
<td>NIH grant to study a virus</td>
<td>Department of Energy (DOE) Cooperative Agreement for FRIB</td>
<td>Funding from JPL/NASA to build an instrument to go to Mars</td>
</tr>
</tbody>
</table>
Gift or Grant?

Gifts – voluntary transfer without strings. Donors:
- Individuals
- Corporate Foundations
- Private Foundations

Gifts & Grants
- Research Gifts
- Definitions overlapping for external reporting
- Corporate and other Foundations and other non-profits

Grants – project
- Governmental
- Foundations and other non-profits
- Other
When Would a Contract be Considered a “Testing” or “Fee-for-Service” Agreement?

MSU faculty work with industry partners to test company innovations.

MSU researchers perform testing using sponsor-created protocols.

Testing is pre-defined based on standard methods
- Does not include analysis or interpretation.
- Usually is funded through contracts and/or purchase orders.

Revenue is generally received as testing is performed or when testing is completed.

*Criteria is based on historical practice. The Manual of Business Procedures (MBP), Section 315: Gifts, Grants, and Contracts was updated. Updated process in development.
Sponsor Restrictions/Involvement in Project

More

Less

Sponsor Restrictions/Involvement

Gifts  Grants  Cooperative Agreements  Contract

4/11/2016  FADP
Sponsored Project Award Process Overview
Most scientists regarded the new streamlined peer-review process as ‘quite an improvement.’
Sponsored Project Award Process Overview

1) eTransmittal approved and proposal submitted

2) Stars Aligned

3) Award notification

4) Determine funding type

5) Award reviewed

6) Negotiation

7) Work with appropriate parties to resolve any award issues

8) All approvals in place including any compliance issues resolved

9) Award accepted/ executed by both parties

10) Assign project account number

11) Accepted by Board of Trustees

e-Transmittal discussed in Budgeting session.

4/11/2016
Award Process Overview

- eTransmittal approved and proposal submitted
- Stars Aligned = decision by external entity to fund
- Award notification/notice of intent to fund
- Determination of funding type & award mechanism
  Process varies by type and mechanism
Award Process Overview (continued)

Award reviewed by Office of Sponsored Programs (OSP) or by Business-CONNECT (B-C) if funds are from industry only

OSP (B-C) works with appropriate parties (at MSU and/or external entity) to resolve any award issues

Negotiation (or confirmation)

All approvals in place including any compliance issues resolved
Award Process Overview (continued)

Award accepted:
Contracts require authorized signature
Grants may be accepted by expending funds

Accepted by Board of Trustees

Transferred to Contract and Grant Administration (CGA) to assign project account number
Negotiations and Common Contractual Issues
Negotiations Take Teamwork to be Successful

OSP (or B-C)

Provost

Dean/Chair

PI

Research Admin.

CGA

Other

MSUT

VPRGS

CTSI

Export Controls

Regulatory Affairs

Risk Management

General Counsel

Controller

Purchasing

Controller

Purchasing

Risk Management

General Counsel
Negotiations Take Teamwork to be Successful (detail)

Office of Sponsored Programs (OSP)* reviews awards and facilitates communications among MSU personnel as necessary, in order to negotiate and accept awards on behalf of MSU. Other advisors, players, and decision-makers in the MSU Team are:

- Office of the Provost
- Dean/Chair
- Principal Investigator (PI)
- Research Administrator (College, Department, or Project level)
- Risk Management and Insurance
- Purchasing
- Controller’s Office
- Contract and Grant Administration (CGA)

- Michigan State University Technologies (MSUT)
- Vice President for Research and Graduate Studies (VPRGS)
- Clinical and Translational Sciences Institute (CTSI)
- Office of Export Controls and Trade Sanctions (ECTS)
- Office of Regulatory Affairs (ORA)
- Office of the General Counsel (OGC)
- Other

*Business-Connect (B-C) serves the role described above for OSP if the negotiation is with industry and no federal funds are involved, e.g., direct award from Pfizer with no Federal funds would be handled by B-C. On the other hand, OSP handles award if U.S. Air Force has a contract with Boeing and Boeing sub-contracts to MSU for a portion of the work.
Contractual Language

Just a few words can have big impacts.

Some award terms are generally prohibited.

Facts and circumstances can have differing impacts.

Intellectual property claim in Stanford v. Roche. Court gave the language “do hereby assign” as taking precedence over “agree to assign”.

Other language may be accepted on a case-by-case basis.

Graduate students versus employees.
Contractual Language and Other Matters that May Extend Negotiations and Delay Signature

Publication/Dissemination Restrictions

Intellectual Property Ownership Rights

Export Controls and Related Restrictions

Participation Restrictions

Non-Compete Clauses

Governing Law

Payment Terms

Approval of Deliverables

Penalties

Arbitration

Time and Material or Labor Hour Contracts

Other
Contractual Language that May Extend Negotiations and Delay Signature

Publication/Dissemination Restrictions

- University policy, with limited exceptions, requires that we do not accept publication restrictions.
- MSU policy based on principles of:
  - Academic Freedom
  - Importance of publishing - to gain tenure or graduate - graduate students and non-tenured faculty are particularly impacted.
- Can take a village to negotiate an agreement

*MSU Faculty Handbook, Section VI. Research and Creative Endeavor*
Contractual Language that May Extend Negotiations and Delay Signature

**Intellectual Property Ownership Rights**

- MSU owns research results developed by MSU employees
- MSU owns any research results developed using MSU resources or facilities (when faculty members are consulting, they are not to use MSU resources and facilities)
- Taking it to court

*MSU Faculty Handbook, Section VI. Research and Creative Endeavor*
Negotiation and Related Activities: How Much Time Does It Take?

Typical Times:
- Processing Time ~ 1 - 4 Weeks
- Processing Time ~ 1 - 5 Weeks
- Processing and Negotiating Time ~ 1 - 8 Weeks

FY 15 Average and Median Times:
- GRANTS: Average Time ~ 4 Weeks, Median Time ~ 3 Weeks
- COOPERATIVE AGREEMENTS: Average Time ~ 4 Weeks, Median Time ~ 3 Weeks
- CONTRACTS: Average Time ~ 6 Weeks, Median Time ~ 4 Weeks
What has OSP Done to Improve Award Processing Time?

| Restructured OSP in April 2014 | • Two Proposal Teams – focusing on proposals  
|                                | • Two Award Teams – focusing on awards and sub-agreements |
| Award teams are fully-staffed with five members per team | • Teams co-located April 2013  
|                                                            | • Two new positions in July 2013 |
| The *OSP Activity Log* was implemented in November 2013 | • Track progress and status of an award  
|                                                            | • Manage Workload  
|                                                            | • Made log available to MSU community in 2014 |
| Negotiation resources developed/developing | • Mapped process as part of KC implementation  
|                                                            | • Subaward and FAR resource improvements  
|                                                            | • Contract negotiation guide developed |
Reducing Delays in Award Processing Time

- Complete proposals as per *OSP Proposal Preparation Guidelines*
- Forward award documents to OSP (or B-C when industry only) immediately upon receipt
- Ascertain that all required approvals are in place
- Recognize that OSP should negotiate directly with sponsor (unauthorized individuals negotiating deals can create delays)
- Timely communication and collaboration
- Plan for negotiations to take time
Test Your Knowledge

Question will be made available during presentation
Test Your Knowledge

Question will be made available during presentation
Thank you for participating

*Supplemental materials included for reference.*

Questions?

Contact Information:

Twila Fisher Reighley  
Assistant Vice President for Research and Graduate Studies  
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517-355-5040

David A. Tuthill  
Sponsored Programs Administrator III  
tuthill5@osp.msu.edu  
517-884-4264

4/11/2016
Reference Materials for FADP Award Process Session

Supplemental information on process, contract language and related information that can delay award is found in the following slides.

*Contracting is also covered in Essentials of Research Administration series.*
Requirements for Award Account Set-Up

- Complete eTransmittal* must have been processed and approved.
- The complete cost of the research has been estimated and included in the project budget.
- Details of how sponsor required cost sharing obligations will be met must be provided.
- Provide required documentation/information for large expenditures, such as equipment and subcontracts.
- Statement of Work is determined.
- Regulatory approvals are in place, e.g. approval or exemption if animal use or human subjects. Be aware that significant time needed for these approvals.
- Fully executed award is received.

*e-Transmittal will be covered in the budgeting session
NOTES: Proposals based on date OSP accepts eTransmittal. Awards consistent with the June 2014 Board of Trustees Report. Award type distribution based on large sample. Different counting methodology for proposals vs. awards.
Intellectual Property Ownership Rights

Recent Court Case

• Stanford University (Board of Trustees of Leland Stanford Junior University) v. Roche Molecular Systems, Inc.
• U.S. Supreme Court held that title in a patented invention vests first in the inventor, even if the inventor is a researcher at a federally funded lab (or university) subject to the Bayh-Dole Act.
• Bayh-Dole Act: legislation dealing with who owns IP arising from federal government-funded research
• If ownership given away, could end up in non-compliance with Bayh-Dole Act.
Contractual Language that May Extend Negotiations and Delay Signature

• Export Controls and Related Restrictions:
  • Federal regulations that apply: ITAR, EAR, OFAC*
  • If export control laws are violated, criminal sanctions (jail/fines) may result. (See also Reference Material).
  • If research is controlled and there are restrictions on participation or publications, a license may be required.
  • Fundamental research is normally outside export control restrictions. A project’s status as fundamental research is affected if publication restrictions are accepted (see also Reference Material).
  • “Deemed Export” - transfer or disclose information or material that is controlled within the US to anyone who is not a US citizen or permanent resident.
  • The MSU Office of Export Control & Trade Sanctions provides support and guidance in this critical area.

*International Traffic in Arms Regulations (ITAR), Export Administration Regulations (EAR), Office of Foreign Assets Control (OFAC)
Federal export control laws restrict the export of goods, technology, related technical data, and certain services in the interest of protecting the national security and domestic economy. These laws have been in existence for many years, but the events of 9/11 have resulted in heightened concerns about national security and stricter interpretation and enforcement of export control laws and regulations by the federal government.

Research activity may be subject to export controls if it involves the actual export or “deemed” export of goods, technology, or related technical data that is: 1) “dual use” (commercial in nature with possible military application), 2) inherently military in nature, 3) proprietary.
Export Controls Supplemental Information

Work in the following areas is more likely to be subject to the controls:

- Engineering
- Space sciences
- Computer Science
- Biomedical research with lasers
- Research with encrypted software
- Research with controlled chemicals, biological agents, and toxins

In addition, any of the following raise export control questions for your project:

- Sponsor restrictions on the participation of foreign nationals in the research
- Sponsor restrictions on the publication or disclosure of the research results
- Indications from the sponsor or others that export-controlled information or technology will be furnished for use in the research
- The physical export of controlled goods or technology is expected
Export Controls Resources

• MSU Office of Export Control & Trade Sanctions
  Phone: (517) 432-4499

• Each fall, for the last 7 years, FBI conference has been held in East Lansing, Michigan and it is anticipated it will continue.
Export Controls Violation Consequences

• Dr. John Reece Roth, a former professor of electrical engineering at the University of Tennessee (UT) in Knoxville.

• Dr. Roth obtained a USAF* contract to do work on military drone aircraft. He allowed two foreign national students to access export controlled data and equipment, and took some of the data with him on a trip to China.

• In January 2012, Dr. Roth began serving a four-year prison sentence for his September 2008 convictions.

*United States Air Force (USAF)
Contractual Language that May Extend Negotiations and Delay Signature

- Participation Restrictions
  - Some sponsored agreements may restrict participation or dissemination of information to U.S. nationals.
  - Work then becomes subject to export controls which includes “deemed exports.”
  - Generally MSU doesn’t accept participation restrictions.
  - Participation restrictions may prevent MSU from performing work as proposed, putting MSU at risk for non-compliance. Grant and Cooperative Agreements may be terminated by recipient, but Contracts usually can only be terminated by Sponsor.
Participation Restrictions

Guidance from the Federal government on fundamental research and participation restrictions:

May 24, 2010 Memorandum from the DOD* Under Secretary of Defense.

“The performance of contracted fundamental research also should not be managed in a way that it becomes subject to restrictions on the involvement of foreign researchers or publication restrictions.”

*Department of Defense (DOD)
Contractual Language that May Extend Negotiations and Delay Signature (continued)

• **Non-Compete Clauses**
  - Could restrict participation of other MSU faculty or staff.
  - Can limit the ability of an investigator to work in the field.

• **Governing Law**
  - As a state entity, MSU normally does not accept laws of another state.

• **Payment Terms**
  - Agreeing to payment terms when all payment comes at the end of a project could be problematic.

• **Approval of Deliverables**
  - Project results that are not what the sponsor expected may put MSU out of compliance, impact academic freedom, or result in non-payment for the work performed.
Contractual Language that May Extend Negotiations and Delay Signature (continued)

- **Penalties**
  - Non-performance penalties can greatly reduce the amount of award and/or cost MSU additional money.

- **Arbitration**
  - Cannot accept binding arbitration for domestic contracts.

- **Time and Material or Labor Hour Contracts**
  - Requirement for reporting and providing support for hours.

- **Other**
  - Example: Termination
Other Issues that May Extend Negotiations and Delay Signature

• Involvement of unauthorized individuals in the negotiating process.

• Subawards to MSU (funding to MSU): receiving funds from an entity (Direct sponsor) that receives funds for the project from another entity (the Prime sponsor).
  • Flow-down clauses not applicable to universities, e.g., receiving costing principles, ownership of data and patents rights clauses or terms applicable to the type of entity of the Direct sponsor.
  • Conflicting terms from the partner that are not included in the prime agreement.
Fundamental Research Definition

“Fundamental research means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.”


Implication:
If not “fundamental research,” Export Controls and other restrictions apply.