

University of Rochester

Allowability and Use of Consultants on Ledger 5 Accounts

The following provides a brief overview on the allowability and use of consultants paid by federal grants and contracts.

Allowability

OMB Circular A-21 (August 8, 2000) states the following about the use of consultants on Federal awards:

“a. Costs of professional and consulting services, including legal services rendered by the members of a particular profession who are not employees of the institution are allowable ... when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal Government. Retainer fees, to be allowable, must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of sponsored agreements; (2) the impact of sponsored agreements on the institution’s total activity; (3) the nature and scope of managerial services expected of the institution’s own organizations; and (4) whether the proportion of Government work to the institution’s total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under sponsored agreements.” (OMB Circular A-21, Section J:32)

Budgeting and Allocating Costs for Consultants

As with any other significant cost to sponsored funding, the costs of consultants should be proposed and fully-justified in the proposal budget. Rebudgeting into consultant costs is normally allowed, unless (1) the use of consultants would indicate a change in the scope of work or (2) the granting agency has not waived its requirement of prior written approval of this expense. A summary of how the University’s major granting agencies treat consultant costs is provided below. Use of consultants on federal contracts (vs. grants) is typically handled by the specific terms of the contract, however, most contracts simply incorporate the principles of OMB Circular A-21.

Agency-Specific Regulations Governing the Use of Consultants

Agencies expect that the University will have policies governing the use of consultants and that these policies **will be consistently applied regardless of the source of funding**. However, some of the federal granting agencies have slight variations with respect to restrictions on the use of consultants.

NIH: Under discretionary grants, PHS awarding office approval is required if the use of consultants, either individuals or firms, constitutes a transfer of substantive programmatic work, or is required by program regulations or other award terms. (please see the PHS Grants Policy Statement at, (http://grants1.nih.gov/grants/policy/nihgps_2001/part_iiia_4.htm#_Toc504811848)

Note: Transfer of substantive work to a firm would be done via a G-Purchase Order issued by ORPA.

NSF: Payment for a consultant's services may not exceed the daily equivalent of the then current maximum rate paid (for up-to-date rate, please see <http://www.nsf.gov/bfa/dga/policy/start.htm>), exclusive of indirect cost, travel, per diem, clerical services, fringe benefits and supplies, unless specifically authorized by law.

NSF Grantees may hire consultants not identified in the grant proposal or award, provided:

1. it is in accordance with written organizational standards;
2. grant funds are reallocated in accordance with the grantee's policies which are consistent with the governing cost principles;
3. it is within the limits of the grant funding.

(NSF Policy Manual, Section 616)

AFOSR: Refers to OMB Circular A-21; all prior approvals are waived. (AFOSR Grant Terms and Conditions, January 1995)

NASA: Payments to individuals for consultant services under a NASA grant shall not exceed the equivalent of the daily rate for Level IV of the Executive Schedule, (please see rates at <http://www.opm.gov/oca/03tables/html/ex.asp>), exclusive of expenses and indirect costs.

Army: Refers to OMB Circular A-21; all prior approvals are waived. (U.S. Army Research Office General Terms and Conditions for Grant Awards, July 1999)

DOE: Refers to OMB Circular A-21; all prior approvals are waived. (10 CFR Part 605)

DOEd:DOEd awarding office approval is required if the use of consultants, either individuals or firms, constitutes a transfer of substantive programmatic work, or is required by program regulations or other award terms. No maximum amount for consultant rates except for specific grant programs (Rehabilitation Training Program Grants).

DOJ: If consultants are associated with educational institutions, the maximum rate of compensation that will be allowed is the consultant's academic salary projected

for 12 months, divided by 260. When the rate exceeds \$450 (excluding travel and subsistence costs) for an eight-hour day, a written **PRIOR APPROVAL** is required from the awarding agency. Prior approval requests require additional justification. If consultants are hired through a competitive bidding process (not sole source), the \$450 threshold does not apply. Consultants employed by State and Local government can only be compensated when the unit of government will not provide these services without costs. If a State or Local government employee is providing services under a Federal grant and is representing their agency without pay from their respective unit of government, the rate of compensation is not to exceed the daily salary rate for the employee paid by the unit of government..

While the references above provide overall guidance, additional restrictions could be placed upon the use of consultants by terms of an individual award. It is ultimately the responsibility of the Principal Investigator to adhere to any grant-specific limitations or restrictions on the use of consultants. Any questions with respect to the use of consultants should be directed to the Office of Research and Project Administration (x5-4031 or gliders@orpa.rochester.edu).

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