International Grant Management: The Zebra Ate My Contract

Moderator
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Agenda

• International Pre-Award/Proposal Challenges & Lessons Learned
  - Darlene McCain, DGHI

• International Awards – Post Award/Subcontract Challenges & Lessons Learned
  - Rachel Whetten, CHPIR
  - Darlene McCain, DGHI

• Export Controls – What to Consider
  - Mark Stomski, Export Controls
International Pre-Award/Proposal Challenges and Lessons Learned

Darlene McCain
DGHI

DGHI Proposal Environment

• Support over 100 Faculty University-wide
• Most include an international component
  – Sponsorship/Funders
  – Collaborators/subcontractors
• International Grants
  – Increased complexity
  – Need more lead time for everything
  • Communications, discussions, budgets/scope, proposal documents, sponsor and subcontractor negotiations.
General “Global” Grant Challenges

- Communications
- Technology
- MOU’s & Contracts
- Interpersonal/Cultural Differences
- Parallel Research Requirements
- Duke Systems International Preparedness
- Duke Campus International Preparedness
- Legal Counsel
- Site Development
- Risk Management

International Sponsor Challenges

- Different Terms and Conditions than US Funders
  - Detailed analysis of RFP/RFA
  - May require legal support
  - Different restrictions (what/who they can fund)

- Communication Challenges
  - More via email; time zone meeting considerations
  - Can take months to negotiate final agreement
International Proposals Challenges

- Identifying all costs with conducting business abroad
  - Site specific; infrastructure needs (communication, internet, voice, power, food, water)
  - Unallowable expenses may be accepted at a foreign site (such as – cite examples)
  - Subcontractors
    - Higher risk due to limited oversight and previous history
    - Limited/weak infrastructure
    - Little to no capital – no funding, no work...
    - IRB Approvals – country level, limited schedule
    - Wire transfers (no checks)
    - Receipts versus Per Diem
    - OSA (Outside Service Agreements)
  - Personnel
    - Who will be hired – Duke employee, foreign Institution?
    - How – direct; third party; staffing firm

Some Lessons Learned

- Develop and use a Proposal SOP
  - Basic info sheet, proposal checklist
  - Detailed analysis of RFP/RFA
  - Develop a proposal schedule especially for large, collaborative or complex proposals
- Inform faculty that their grant specialist will need additional up front time (how much and why)
- Before submitting a proposal, seek legal counsel at time of Letter of Intent
  - Any past experience with funder or country?
  - Preliminary determination if grant/contract from sponsor can be successfully negotiated
  - Identify potential legal issues upfront to determine if should submit a proposal
Some Lessons Learned (more)

- Subcontractor/Their Proposals
  - Identify key points of contacts for prime and subs
  - Assess their proposal knowledge/international grant experience
  - Communicate requirements upfront
  - Provide them with: Basic info sheet, proposal checklist
  - Draft proposal schedule tailored to the subcontractor (will need to understand their approval process)
  - Understand their unique needs
  - Assist with understanding requirements when needed/requested

Know Who and When to Contact

- ORA/ORS
- Corporate and Foundation Relations
- SOM or Campus IRB
- Risk Management
- Export Control
- Legal
- Unit Administration
Open Discussion

• Questions
• Other Experiences?
  – Challenges
  – Lessons Learned
• Unique or systemic?

International Awards – Post Award/Subcontract Challenges and Lessons Learned

Rachel Whetten, CHPIR
Darlene McCain, DGHI
Subcontracts

• Once an international grant is awarded, what happens next?
  – Department’s Role
    • Award Letter
    • ORS/ORA
    • Sub-recipient forms
    • Payment terms
    • OSP
    • Invoices and wire information

The Butterfly Effect:
Case Studies

• Who pays?
  – Case #1: POFO and the PI
  – Backstopping
Subcontractor Renewals

• It’s a simple process, right?

• What to consider
  – Budget changes?
  – Sponsor funding time lags
  – Advance funding needed; at risk?
  – All documents available?
  – Active IRB (and how long?)

Renewals – Some Lessons Learned

• Work all issues ahead of time
  – Resolve budget issues; revised scope
  – Pre-award spending requests
    • Get in ORS/ORA’s Que!
  – Adequate IRB coverage

• Include advance payments in SubC
  – Forward fund 3-6 months (risk?)
  – Based on invoice/adequate expenditures; forward fund remaining amount (retainer?)

• Send Invoices to PI/GS First (review/approval)
  – Email to OSP: OSPSubcontractMGMT@duke.edu
  – Email Header: FOREIGN INVOICE ATTACHED
  – Include SWIFT/Account Info with each invoice
The Butterfly Effect: Case Studies

- Who pays?
  - Case #2: POFO and the Wedding Gift
  - Pre-Award Spending

International IRB

- Annual renewal
  - Human Subjects Training

- International Routing
  - India
The Butterfly Effect: Case Studies

- Who pays?

  - Case #3: POFO and the Discretionary Account

Open Discussion

- Other Challenges?
- Isolated or Systemic?
- Other Lessons Learned?
Export Controls – What to Consider

Mark Stomski, Export Controls

Export Controls

- Enforced by several US government agencies (Customs, State, Commerce, Energy, FDA, Fish and Wildlife, etc.)
- Includes physical shipments as well as sharing technical data with a foreign national, wherever located
- Each agency has volumes of what is export controlled and to whom
- Certain end-uses (such as nuclear or chemical/biological weapons) are also controlled
Excluded from Export Controls

• Public Domain data except when working with foreign military or space agencies
• Fundamental Research Results that are openly generated at US universities with the intent to share broadly in the academic community without the approval of a sponsor or government agency
• Teaching foreign nationals science and engineering concepts in the course of an academic catalogue course

Collaborating Internationally

• An export license may be required for the following activities:
  – Physical shipments of goods, software, or technical data that are export controlled
  – Research or support provided to a foreign military agency, foreign space agency, or foreign defense manufacturer
  – Teaching foreign nationals how 3rd party equipment is designed, developed, produced, or manufactured (if not in public domain)
  – Exposing foreign nationals to a product that was specifically designed or modified for military or space application (e.g., night-vision goggles, Y-code capable GPS)
  – Working with foreign nationals of sanctioned countries
Sanctioned and Debarred Parties

- Highly sanctioned countries: Cuba, Iran, North Korea, Sudan, and Syria
  - Collaboration may require a license
- Other sanctioned countries: Belarus, Burma (Myanmar), Congo, Ivory Coast, Liberia, Libya, Somalia, Zimbabwe
- Debarred Parties – Obscure or unfamiliar entities should be screened against the debarred lists. Contact Export Controls.

What the Office of Export Controls does behind the scenes

- Reviews proposals and/or awards to ensure fundamental research exclusion
- Establishes procedures with departments and centers for physical shipment review (e.g., Fed Ex)
- Reviews H1-B visa applications for export control licensing requirements
- Submits all Duke export license applications (expect CITES endangered species)
- Monitors international travel and sanctioned country activity

WE NEED YOUR EYES AND EARS TO ALERT US TO POTENTIAL EXPORT CONTROL ISSUES
Red Flags

- Physical exports of material, software, or technical data
- Sharing technical information with foreign nationals that is not in the public domain or “fundamental research results”
- Providing assistance to foreign military or space programs
- Working with individuals or entities that are debarred or sanctioned by the US government
- Providing something of value to a foreign government official in order to obtain an unfair advantage (Foreign Corrupt Practices Act)

Export Control Contacts

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Discussion/Questions

• Questions/Issues
• Other Shared Experiences