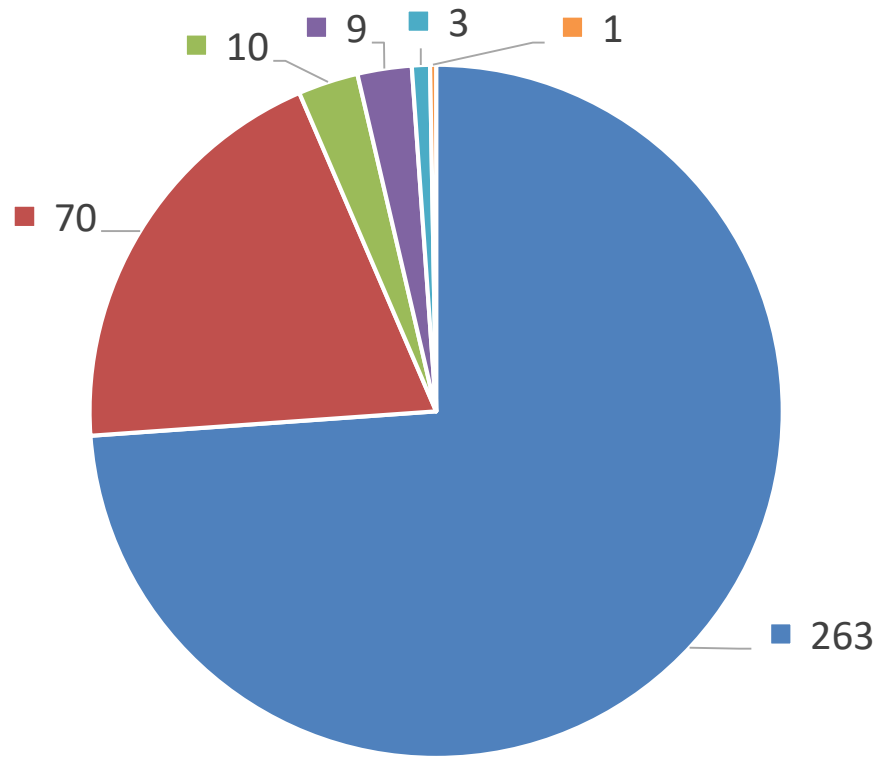


RAC FORUM

September 30, 2020



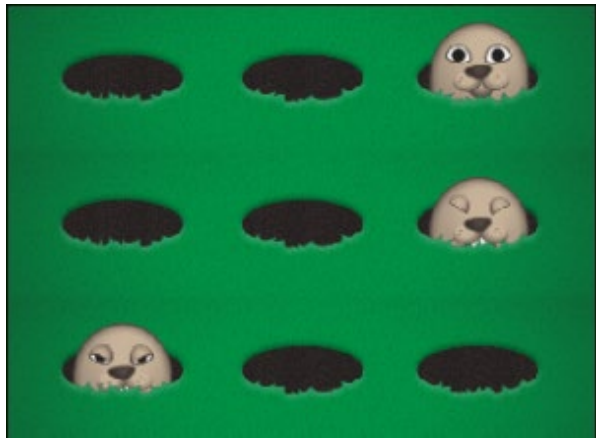
FY 21 Funding (to date) \$356 Million



■ Federal ■ Non-Profit ■ State ■ Industry ■ UC ■ Govt-Non Fed

WHAT'S NEW?

- Involuntary Downtime Policy
- Foreign Influence Update
- Cyber Security
- 9/22/20 Executive Order



Involuntary Downtime

(Idle Time)

- On April 2, 2020, UC President Napolitano issued guidance that there would be no COVID-19 related layoffs for all career employees through the fiscal year ending on June 30, 2020.
- This enabled UC campuses to use the flexibilities outlined in OMB M-20-17 to continue to charge project personnel salaries and benefits to currently active federal awards despite the unexpected or extraordinary circumstances created by the COVID-19.

Involuntary Downtime

(Idle Time)

- When M-20-17 expired on June 17, 2020, the Office of Management Budget (OMB) issued memo M-20-26.
- M-20-26 allows Federal award recipients to continue to charge salaries and benefits of project personnel to federal awards under certain conditions.
- M-20-26 expires today!



Conditions:

- M-20-26 allows involuntary downtime to be charged to Federal awards as long as recipients...
 - Have a consistent policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources, Federal and non-Federal.
 - Exhaust other available funding sources to sustain its workforce.
 - Implement necessary steps to save overall operational costs before charging project personnel salaries and benefits to currently active Federal awards.

Berkeley's Policy

1. PIs should make arrangements for remote and/or alternative work for personnel on federal awards whenever possible.
2. If such arrangements affect the project's scope of work, PIs should contact the campus Sponsored Projects Office.
3. If such remote/alternative work arrangements cannot be accommodated, PIs may continue to pay salary/benefit under certain conditions.

Conditions:

1. Use alternate sources of campus funding, when available, prior to charging salary and benefit costs related to involuntary downtime to federal awards.
2. Document and maintain records regarding these charges in accordance with [§ 200.333](#) of the Uniform Guidance.
3. Move charges for involuntary downtime to non-federal sources if conditions are not met.

Required Documentation:

- The reason remote/alternative work on the project could not be accommodated.
- What has done to reduce the federal project's operational costs to save overall operational costs in order to preserve federal funds for the ramp-up effort.
- Steps taken to exhaust other available sources of campus funding before salary and benefit costs related to involuntary downtime were charged to federal awards.

Foreign Issue “Buckets”



(1) Peer Review Violations

- Garden Variety: reviewers sharing applications with others without first obtaining permission from the funding agency; reviewers asking others to write reviews for them; PIs contacting or attempting to contact reviewers prior to study section meetings in attempts to influence the outcome of review; and reviewers and PIs sharing confidential information with each other.
- Sharing confidential application information with foreign entities
 - TTP Quid Pro Quo
 - A peer reviewer for NIH who also received funding from the TTP sent unfunded R01 applications by email to scientists in China

(2) Failure to Disclose

- Foreign employment arrangements
- Foreign grant support that creates problems with overlap, or over-commitment
 - publications include undisclosed foreign grants in addition to federal sponsor funding
- Non-disclosure of substantial foreign research support: free labor (visiting scholar/student funded by a foreign source)
- Talents awards (TTP)
- Hidden transfers of information, know-how, data, person-time
- Significant foreign financial Conflict of Interest:
 - Equity in foreign companies
 - Foreign patents that leverage US tax-payer funded work

(3) Violating Export Control Laws

- Shipping a export controlled item internationally
- Transfer of technology and data to foreign countries and/or foreign nationals in the U.S
- Travel to a sanctioned country
- Traveling internationally with University equipment
- Paying persons located in sanctioned countries
- Research collaborations with individuals/entities from a sanctioned country
- Restricted party screening of collaborating individuals and entities

Cyber Security/Integrity

- June 1, 2020 UCSF detected a “security incident” in its medical school’s IT environment. Attackers launched malware that encrypted a “limited number” of servers within the medical school, making them inaccessible.
- UCSF paid \$1.14 million in exchange for a tool to unlock the encrypted data and the return of the data.
- UC has established a Cyber Risk Working Group (CRWG) to focus on research data security and IT services to support research, led by representatives from Vice Chancellors of Research.

Cyber Security/Integrity

- September 25th Calmessage: October is Cybersecurity Awareness month. To help kickoff a month of activities geared to help the campus community learn about their important role in protecting their personal and university data, VCR Randy Katz, and Jenn Stringer, Associate Vice Chancellor for IT and Chief Information Officer will participate in Research Cybersecurity Town Hall on Tuesday, Oct. 6, noon to 1 p.m.
- To register for the town hall:
https://berkeley.zoom.us/webinar/register/WN_9Jn2IMAW_S66NQufT8N2U3w

Executive Order

- On September 22, President Trump released an [Executive Order](#) , entitled “Executive Order on Combating Race and Sex Stereotyping.”
- Prohibits certain types of workplace diversity training for federal agencies, the military, and federal contractors and grantees.
- Federal contracts entered into on or after November 21, 2020 must include provisions prohibiting workplace training “that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating.”

Background

- Department of the Treasury seminar promoted argument that “virtually all White people, regardless of how ‘woke’ they are, contribute to racism.
- Training materials from Argonne National Laboratories, a Federal entity, stated that racism “is interwoven into every fabric of America”
- Sandia National Labs asked those present to “acknowledge” their “privilege” to each other.
- Smithsonian trainings: rational linear thinking, hard work, the nuclear family, and belief in a single god are not values that unite Americans of all races but are instead “aspects and assumptions of whiteness.”

EO: Prohibited Content

- One race or sex is inherently superior to another race or sex;
- An individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
- An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;
- Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

EO: Prohibited Content (cont.)

- An individual's moral character is necessarily determined by their race/sex
- An individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
- Any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex;
- Meritocracy or traits such as a hard work ethic are racist or sexist/created by a particular race to oppress another race.

Requirements

- Federal contractors will be required to post a notice in the workplace describing the requirements of the Executive Order and provide the notice to labor unions.
- Federal contractors also must include these provisions in US subcontracts or purchase orders related to the federal contract.
- DOL will have a hotline for reporting violations
 - Non-compliance: contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts

Requirements

- At this time, the EO contains no provisions for grant agencies to promulgate regulations to enforce it. Heads of Agencies expected to identify training programs that “may” require certification.
- Federal agencies must submit a report within 60 days of the order identifying those grant programs to which this condition may be added.
- The federal grant-based restrictions will not take effect until after agencies have reviewed their grant programs and determined which programs should include these conditions.
- Possibility EO will be challenged.

Everyone Take Care!

