

SPO Update

Department of Energy
State of California

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RAC Forum
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DOE – revised C&P requirement

Department of Energy solicitations have revised guidance for current and pending

An example:

WARNING: These instructions have been significantly revised to require disclosure of a variety of potential conflicts of interest or commitment, including participation in foreign government-sponsored talent recruitment programs.

The PI and each senior/key person at the prime applicant and any proposed subaward must provide a list of all sponsored activities, awards, and appointments, whether paid or unpaid; provided as a gift with terms or conditions or provided as a gift without terms or conditions; full-time, part-time, or voluntary; faculty, visiting, adjunct, or honorary; cash or in-kind; foreign or domestic; governmental or private-sector; directly supporting the individual's research or indirectly supporting the individual by supporting students, research staff, space, equipment, or other research expenses. All foreign government sponsored talent recruitment programs must be identified in current and pending support.

DOE Order 142.3B

Unclassified Foreign National Access Program

- Requires DOE approval of foreign nationals who have access to DOE sites, information and technologies.
- Why is this an issue?
 - Citizenship restrictions can jeopardize our Fundamental Research Exclusion (FRE) from Export Control regulatory requirements
 - UC policy on nondiscrimination and citizenship restrictions does not allow acceptance of award with citizenship restrictions (with some exceptions)
- Revised in January 2021, replaces DOE Order 142.3A
- UCB has yet to receive awards that implement this latest version of the Order.

DOE Order 142.3B

Unclassified Foreign National Access Program

SPO procedure (subject to change):

Proposal stage - all DOE proposals, including DOE Labs

- Suggest the PI include in the SOW a statement regarding fundamental research
- Informs the PI there may be additional review steps required to accept an award

Award stage

- SPO works to remove or modify the foreign national access clause whenever possible
- SPO consults with the Export Control Officer, as needed to determine if the clause is acceptable under UC policy or confirm the proposed work is fundamental research
- Terms are different based on the DOE Office or DOE Lab issuing the agreement
- SPO drafts informed consent or informed participation agreements for the PI and Chair depending on the foreign national access terms in the agreement
- Notify SPO if your PI or research team receives a request for citizenship or nationality information from DOE/DOE Lab
- UCB may need to decline or terminate an award if DOE does not approve a foreign national's participation on the project.

State of California – IDC rate

On-campus indirect cost rate for state-funded projects will not escalate to 35% as previously anticipated on July 1, 2021.

Rate Schedule for IDC Recovery for State of California Agreements

Effective Period	On-Campus Rate	Off-Campus Rate	Base
January 1, 2016 through June 30, 2018	25%	25%	MTDC (F&A Rate Agreement)
July 1, 2018 through June 30, 2019	25%	25%	MTDC (F&A Rate Agreement)
July 1, 2019 through June 30, 2022	30%	25%	MTDC (F&A Rate Agreement)
July 1, 2022 through June 30, 2023	35%	25%	MTDC (F&A Rate Agreement)
July 1, 2023 and beyond	40%	25%	MTDC (F&A Rate Agreement)

The rate in effect for first year of a multi-year project will be the rate used for the entire project unless additional funds (not previously appropriated or budgeted) are awarded. When new funds are added the new budget should include the IDC rate in effect at the time the budget is constructed.

Reminder: Federal F&A rate is required when the State is a pass through entity for federally funded projects.

Links

[DOE Order 142.3B, Unclassified Foreign National Access Program](#)
SPO's [State of CA proposal guidance webpage](#)