

Georgia Tech & Emory ARPA-H Initiative

Advanced Research Projects Agency for Health (ARPA-H)
Training for Research Administrators at
Georgia Tech and Emory University

Presenter: Ashley Smith, Georgia Tech



Terms & Conditions Workshop

Ashley Smith, Georgia Tech

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Exceptions Template

[Insert Institution] Exceptions to [Insert Sponsor Name] Terms and Conditions
[Insert Institution] Proposal No. _____
[Insert Sponsor Name] Solicitation No. _____

ORIGINAL CLAUSE:

INSERT CLAUSE NAME AND NUMBER; OPTIONAL TO INCLUDE CLAUSE IN FULL TEXT

Example: Clause 22. Payments, Taxes, and Duties, (c) SPONSOR shall have a right of setoff against payments due or at issue under this Contract or any other Contract between the parties.

Redlines:

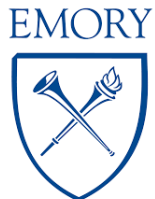
Copy-and-paste the original clause here with the requested changes.

Example: Request to remove (c) in its totality or remain silent by deleting the original text and marking (c) as "Reserved".

Rationale:

You must provide detailed rationale to explain the basis for the exception.

Example: As a state entity, GTRC cannot accept offsets for money owed to GTRC under one contract to off-set refunds owed to sponsor under another contract.



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ORIGINAL CLAUSE:

INSERT CLAUSE NAME AND NUMBER; OPTIONAL TO INCLUDE CLAUSE IN FULL TEXT

Example: Federal Acquisition Regulation (FAR) 52.216-7 Allowable Cost and Payment (Aug 2018)

Redlines:

Copy-and-paste the original clause here with the requested changes.

Example: Request to include Alternate (ALT) II of the clause

Rationale:

You must provide detailed rationale to explain the basis for the exception.

Example: As prescribed in FAR 16.307(a) (3) - If the contract is with an educational institution, the contracting officer shall use the clause at FAR 52.216-7 with its Alternate II.

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Controlled Unclassified Information (CUI)

- CUI is defined as information that requires safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and government-wide policies but is not classified.
- Proposals containing CUI must be appropriately & conspicuously marked.
- Review BAA for specific CUI guidance
- What's your Institution's position on accepting work involving CUI?



CUI Organizational Index Groupings

Critical Infrastructure	Defense	Export Control	Financial
Immigration	Intelligence	International Agreements	Law Enforcement
Legal	Natural & Cultural Resources	North Atlantic Treaty Organization (NATO)	Nuclear
Patent	Privacy	Procurement & Acquisition	Proprietary Business Information
Provisional	Statistical	Tax	Transportation



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Warranties & Indemnification

- Warranty/Guarantee
 - Any term that unconditionally assures or promises a certain result or outcome, including such terms as acceptance testing.
 - Written guarantee, issued by the university to the sponsor, promising to repair or replace the deliverable, if necessary, within a specified period of time, without additional cost.
 - Constitutional prohibition rationale: (a) Pledge against the state's credit and (b) gratuities by the state; Resources may have to be expended to satisfy such a warranty or guarantee.
- Indemnification (Hold Harmless)
 - Any term that requires the university pay all losses another party (i.e., sponsor) may incur
 - Constitutional prohibition rationale: (a) Pledge against the state's credit and (b) gratuities by the state; Resources may have to be expended to satisfy such a warranty or guarantee.

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Termination for Default (and Cause)

- Termination for default (and cause)
 - If university fails to meet the contract requirements, the university is required to pay for re-performance of services or re-procurement of goods, at the university's own expense.
 - Universities perform research on a reasonable efforts basis.
 - The termination can be reported in SAM.gov and impact university ability to receive future federal awards.
 - Constitutional prohibition rationale: (a) Pledge against the state's credit and (b) gratuities by the state; Resources may have to be expended to satisfy such a warranty or guarantee.



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Publication Restrictions

- Is it Fundamental Research?
 - Fundamental Research – Basic and applied research in which results are ordinarily published and shared broadly. Results are generally not subject to export control laws and regulations.
- Fundamental Research Exclusion (FRE) does **NOT** apply if an agreement:
 - Gives the sponsor a right to publication approval
 - Restricts/prohibits the participation of foreign nationals



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Special Considerations

- Tax-exempt bond financed facilities – Only basic research can be performed in such facilities according to IRS rules and regulations
- Basic research – Original investigation for the advancement of scientific knowledge not having a specific commercial objective
- Restricted research – Includes all classified research, and any proprietary or other research that requires a prior approval or an extended delay in publication of research results
- Granting of an exclusive license to intellectual property developed in a sponsored project is not permitted



Questions?

