



Consulting Agreements on Sponsored Projects # 2320.018

INITIAL EFFECTIVE DATE: February 11, 2004	LAST REVISION DATE: June 3, 2021	RESPONSIBLE UNIVERSITY DIVISION/DEPARTMENT Office of Research and Economic Development (ORED)
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POLICY STATEMENT

A consulting agreement will be prepared for each Consultant providing services on a sponsored project to evidence the work the Consultant is to perform on the project and the compensation to be paid to the Consultant. It is the responsibility of the PI to ensure that all Consultants that the PI selects have the technical expertise to perform the work required by the consulting agreement. If the sponsor award requires the sponsor’s prior approval for Consultants or if the sponsor award contains any export control requirements (e.g., no foreign nationals may work on the project or the sponsor must pre-approve any foreign nationals on the project) and/or a technology control plan is in place to address the export control requirements of the sponsor award, the PI must ensure that he/she has such written approvals and/or complies with the requirements of the technology control plan prior to requesting that ORED prepare the consulting agreement.

SCOPE

University Community (faculty, staff and students)

REASON FOR POLICY

To ensure compliance with sponsor regulations, and to define the role of a Consultant.

DEFINITIONS	
TERM	DEFINITIONS
Consultant	It is expected that consulting needs can normally be satisfied from resources within the University community. However, if the expertise needed for the project is not reasonably available within FIU, then outside consulting services may be charged if all of the following conditions are met:



	<ul style="list-style-type: none"> a. the Consultant must be involved in carrying out programmatic tasks and involved in making programmatic decisions in consultation with the PI. b. the Consultant must have assisted in developing the scope of work for the proposal c. the Consultant must be able to meet the required flow down requirements of the prime award to FIU d. the Consultant has the requisite expertise related to the programmatic work proposed to be carried out on the sponsored project; e. the skills or expertise of the Consultant are not available within the university; f. the Consultant has a written contract that states clearly the nature of services to be provided (the contract will be processed by ORED); g. the services are in direct support of work to be performed under the sponsored agreement; and h. the amount paid to the Consultant is reasonable in relation to the services provided.
PI	Principal investigator
ORED	Office of Research and Economic Development

ROLES AND RESPONSIBILITIES

PI and their respective department should review this policy and related procedure before moving forward with a Consultant as part of their project. It is the responsibility of the PI to ensure that all Consultants that the PI selects have the technical expertise to perform the work required by the consulting agreement.

ORED shall assist PI with questions regarding Consultant include salary, fee limits, and execution of consulting agreement.

RELATED RESOURCES

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the "Uniform Guidance") ORED Policy - Hiring and Paying Consultants on Sponsored Projects

ORED Policy # 2350.075 - Sponsored Research Purchasing Exemption

FIU Regulation 2201, Purchasing



CONTACTS

Pre-Award
Office of Research and Economic Development
Florida International University
11200 S.W. Eighth Street - MARC 430
Miami, Florida 33199

HISTORY

Initial Effective Date: Office of Sponsored Research Administration Faculty/Staff Guide for the Administration of Externally Funded Projects, INTERIM VERSION. Effective Date: February 11, 2004, May 1, 2021

Review Dates (*review performed, no updates*): N/A

Revision Dates (*updates made to document*): March 18, 2008, November 5, 2009, June 8, 2015, and April 15, 2021. This policy supersedes the Hiring and Paying Consultants on Sponsored Projects policy number 2350.030. Consulting Agreements on Sponsored Projects # 2320.018 merges Consultant Services on Sponsored Projects Proposals policy number 2320.015. Policy 2320.015 shall be archived; June 3, 2021.



Consulting Agreements on Sponsored Projects # 2320.018a

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PROCEDURE STATEMENT

No cost of a Consultant may be charged directly to a sponsored agreement if the services provided by the Consultant:

- a. are in the nature of marketing, proposal development, business development, or any other activity whose purpose is to obtain outside funding;
- b. consist of general management support or advice; or
- c. consist of administrative support that would not be directly chargeable to the sponsored agreement if provided by an employee of the university.

Because it is expected that consulting needs can normally be satisfied from resources within the University community, PIs should explain in the proposal narrative or budget justification how the specific expertise either does not exist on campus or is not readily available.

Some federal sponsors, such as the National Institutes of Health place a cap on the rate of salary or the rate for Consultant fees that may be charged to a project. The PI must ensure that the salary/fees requested and paid on the project do not exceed these limitations. See the ORED web page or contact your ORED representative for these salary/fee limits.

FIU employees may not be listed as Consultants on sponsored project budgets. If FIU employees are to work on a federally funded project, they should be listed on the proposal budget in the "senior salary" section and, if funded, are paid out of the sponsor's project funds for their regular salary attributable to their work on the project.

FIU employees may also work on a federally funded project on a cost sharing basis as professional courtesy. In those situations, the FIU employee would not be compensated from the federal funds and an FIU cost sharing form would be completed for that FIU employee's salary portion attributable to the project only if cost sharing is mandatory on the project or an exemption has been granted to cost share said effort.

Please note that a Consultant is not hired as an FIU employee. If a PI needs to hire a Consultant on a sponsored project, or amend an existing consulting agreement, the PI must

complete the Consulting Agreement/Amendment Request form in order to provide the following information to ORED, Pre-Award for preparation of a consulting agreement to be signed by both the ORED authorized signatory and the Consultant:

1. If there is any potential conflict of interest with the Consultant with whom FIU will be contracting, then the PI must advise ORED of the details of the same BEFORE the agreement is prepared or signed;
2. Advise if the sponsor award has any pre-approval requirement for Consultants or any export control requirements;
3. Sponsored Project ID number from which Consultant will be paid. The PI should check the sponsored research project ID number in PantherSoft to ensure that there is enough budgeted in the "Consultant" category to cover the costs of this consulting agreement. If not, the PI must request a budget transfer to move sufficient funds into the Consultant category;
4. Name, address, telephone number, fax number and email address of the Consultant;
5. Scope of work for the Consultant in sufficient detail so that the work that the Consultant is to perform to be entitled to payment is clear. Detail any deliverables needed, reports required, data sets to be provided and the dates for the same. The scope of work for the project may be attached only if it clearly delineates the Consultant's particular work. The scope of work may not contain any lobbying effort, as federal and Florida laws prohibit the use of sponsor funds to pay for lobbying;
 - a. 6 Period of performance for the consulting work. The period of performance cannot begin before, or extend beyond, the start and end dates of the prime award's period of performance. ORED cannot prepare consulting agreements for work that was already performed and the Purchasing Department will not issue a Purchase Order for any such work. Therefore, upon receipt of the prime award, PIs should promptly provide to ORED the information required for the consulting agreement preparation so that the consulting agreements may be promptly prepared before any work is begun by the Consultants;
6. Manner in which the Consultant is to be paid – per a budget or a deliverable schedule? If per a deliverable schedule, provide the schedule. (Note that a Consultant generally may not be paid in advance of work, but may only be reimbursed for work performed);
7. If the consulting agreement is for more than \$75,000, services must be bid pursuant to the FIU Purchasing provisions. In rare instances, such services may qualify for a bid exemption. The exemption must be justified by the PI by filling out the Sponsored Research Bid Exemption Certification form which must be forwarded to ORED for processing. The Sponsored Research Bid Exemption Certification form must be approved by ORED and by the FIU Purchasing Department.

The bid exemption must be approved, or the bid process completed, as appropriate, before the consulting agreement may be executed and work begun by the Consultant.

After preparing the consulting agreement, ORED will transmit it to the Principal Investigator for review and approval. Once the PI approves the agreement, it may be forwarded to the Consultant for review and execution. If any negotiation is required on the agreement terms, ORED will undertake such negotiations in concert with the FIU PI and the FIU General Counsel's Office, as necessary. Upon execution of the final agreement by the Consultant and the ORED authorized official, ORED keeps one fully executed agreement in its files, forwards one fully executed copy to the Consultant and provides a copy of the fully executed agreement to the PI. Consulting agreements may not be executed by the Principal Investigator or other project staff.

Once the PI receives the fully executed agreement, he/she must prepare a requisition for the agreement so that a Purchase Order may be issued allowing payment to the Consultant when he/she invoices. The Consultant should forward all invoices to the PI for approval of the invoice for payment if the Consultant has performed as required by the consulting agreement. In such instances, the PI receives the invoice in PantherSoft evidencing that it may be paid by FIU and forwards to the FIU Accounts Payable Department, with the FIU Purchase Order number written on the invoice. The FIU PO number is required so that Accounts Payable may match the invoice with the PO which allows payment. Approval of the final Consultant invoice for payment by the PI certifies to the University that the Consultant has performed all the work required by the agreement satisfactorily and may therefore be paid in full pursuant to the consulting agreement amount.

If the Consultant has NOT performed as required by the agreement, the PI should NOT approve the invoice for payment and should instead contact ORED so that appropriate steps may be taken by ORED, in conjunction with the FIU General Counsel's Office, relating to demanding the Consultant's compliance or termination of the consulting agreement, as necessary.

Note that a consulting agreement for a Consultant in a foreign country may require preparation by an attorney authorized to practice law in that foreign country to ensure that applicable laws of that country are followed. If necessary, ORED, Pre-Award, will work with the FIU Office of the General Counsel to hire the attorney once the award is processed, but the cost for the attorney must be paid from the project award funds or by the PI's Department, Center or College. Therefore, the PI should include the cost of hiring the attorney in his/her proposal. If the sponsor will not pay to hire the attorney, the cost of the same must be provided by the PI's Department, Center or College.