

**Federal Demonstration Partnership  
Terms and Conditions Committee Meeting  
Monday, January 12, 2004**

Committee Members Present

Sarah Wasserman, University of Illinois, Co-Chair  
Samuela Evans, University of California  
Judith Dillon, Duke  
Melanie Krizmanich, USDA/CSREES  
Mary Schmiedel, Georgetown  
Millie Lee, EPA  
Suzanne Polmar, Yale  
Mike Ludwig, Purdue  
Marcia Hahn, NIH  
Trudy Wood, DOE  
Harry Haraldsen, AFOSR

**Minutes**

1. Statutory Matrix: Identify new (since 2000) laws that should be incorporated in the FDP “Statutory Requirements Matrix” (Appendix B to the FDP Operating Procedures). Possible updates include:
  - cybersecurity
  - bioterrorism
  - classification/security

Those federal representatives present expressed the opinion that grant regulations had not been affected by legislation on cybersecurity and bioterrorism, since provisions of these acts affect only specific awards. There is no stipulation in the legislation that the provisions be incorporated into agency grant regulations.

They did believe that the matrix should be updated to reflect select agent regulations.

Select agent regulations are in accordance with the *USA PATRIOT Act* and the *Public Health Security and Bioterrorism Preparedness and Response Act of 2002*. The *USA PATRIOT Act* sets requirements for the appropriate use of select biological agents. It also specifies those persons who should be restricted from working with select agents, and imposes criminal and civil penalties for the inappropriate use of select agents. The *Public Health Security Bioterrorism Preparedness and Response Act of 2002* updated the existing *Select Agent Rule* by requiring facilities to register if they possess select agents. Previously, only facilities that wished to transfer select agents needed to register with CDC.

Before the next meeting, a subgroup of the Terms and Conditions will draft the section on select agents for the statutory matrix.

Classification/security is addressed in item #3 below.

The PL 106-107 working group is working on consolidated assurances and certifications, and when that project is completed, FDP would no longer maintain those statutory requirements in its matrix.

2. Prior approval for subawardees. With one exception, all Agencies' FDP model subaward agreements incorporate a provision in the General terms and conditions attachment stating: *"Any prior approvals are to be sought from the University and not the Federal Awarding Agency."* Should this provision be incorporated into the FDP General Terms and Conditions, or alternatively, the Operating Procedures?

Subsequent to the meeting, we clarified with Bob Killoren at Penn State, co-chair of the subawards working group, that the intent of this provision is to prevent subawardees from circumventing prime awardees and seeking approvals directly from the awarding agency. The authority of the prime awardee to approve requests from subawardees without submitting the requests to the awarding agency for approval is limited to changes that the prime awardee has the authority to make on its own behalf without seeking approval from the awarding agency.

3. National Security Clause for Statutory Requirement Matrix

The 1997 General Terms and Conditions had a clause based on E. O. 12356, which has since been revoked. The question is how to handle this requirement in the FDP Terms and Conditions.

The agency members of the committee are asking the advice of security officials in their agencies on the attached draft. Committee members are asked for comments as well, on one set of comments has been received.

4. Archiving Prior Approval Matrices

Effective with the July 2000 FDP Terms and Conditions, a "prior approval matrix" is provided as a tool for FDP members. The Committee decided that although the matrix itself is not authoritative, that all versions will be dated and maintained on the FDP Terms and Conditions website maintained by NSF. The most recent version is January, 2004.