

Basics of Federal Contracting

What is a Federal Contract?

A Federal Contract, like a grant or cooperative agreement, is a mechanism used by the Federal Government to provide funding for research and development projects. Unlike a grant or cooperative agreement though, the Federal Government uses contracts as a procurement mechanism. The principal purpose of the Federal Contract instrument is to purchase property or services for the direct benefit or use of the United States Government. Federal Contracts are governed by a strict set of terms and conditions, including clauses from the [Federal Acquisition Regulation \(FAR\)](#). These contracts usually require frequent reporting and a high level of responsibility to the sponsor. A failure to perform and achieve the promised results or product on time and on budget could result in criminal and/or civil actions and/or financial consequences to the University, administrators, or others involved.

Difference between Grants and Contracts	
FEDERAL CONTRACTS	FEDERAL GRANTS
Used as a procurement funding mechanism (i.e. buyer/seller) for the direct benefit or use of the U.S. Government.	Flexible funding mechanism to support public purpose (i.e. assistance mechanism).
Relatively inflexible as to scope of work, budget, and other changes.	Flexibility to change Scope of Work, Budget, etc.
Governed by statutes, rules, and regulations (e.g., Federal Acquisition Regulations, FAR).	More freedom to adapt project and less responsibility to produce results.
Require frequent reporting.	Usually only annual report.
Failure to perform can result in potential legal action or financial consequences.	Failure to perform not likely to result in legal action or financial consequences.
May be unilaterally awarded at proposal stage without ability to negotiate terms and conditions.	

A full description of the differences between a grant and a contract can be found [here](#).

How can I identify a Federal Contract?

Most solicitations will indicate when funding will be awarded under a Federal Contract. Where the solicitation is unclear or you are still not sure, there are a number of other indicators you can use to identify a Federal Contract. For example:

1. If the award or solicitation contains references to the [Federal Acquisition Regulations \(FAR\)](#), this is a good sign that the project is funded through a Federal Contract. Examples of FAR Clauses are: FAR [52.227-14](#) – Rights in Data, General; DFAR [252.225-7001](#) – Buy American Act and Balance of Payments Program; or HHSAR [352.224-70](#) – Privacy Act.

2. The contract number itself can also be a clue. For Example: If the sponsor is the NIH the Contract Number will begin with HHSN or N01.
3. The cover page of the contract, in most cases, will also indicate that it is a Federal Contract. For Example: If Section I, Contract Clauses has an X next to it and/or the signature block section is checked to indicate Negotiated Agreement/Contractor Required to Sign (usually block 17).

What is the Federal Contract Process Overview?

The Federal Contracting process can be equated to a relationship with the sponsor. There are various stages of the process and some interaction between the various stages in order to have the process work efficiently and effectively for all parties. Click here to see a diagram of the process.

Tips:

1. When trying to determine if the award in hand is a Federal Contract, always trace the funding back to the prime sponsor (organization holding the contract from the Federal Government).
2. If the award is at the modification/amendment stage, you may need to go back to the original award document in order to determine if the prime source is a Federal Contract.
3. Federal Contracts come in many forms, such as:
 1. Standard Contract
 2. Order for Supplies or Services
 3. Master Agreements with Task Orders
4. The Federal Government uses the same template for contracts and cooperative agreements. The template will say "Contract No." regardless of the type of award mechanism.
5. Prime sponsors may call a third party agreement a "Subcontract" even if the prime source is a grant.
6. A good resource for searching for Federal Contracts is: [Federal Procurement Data System](#). If an award is in this database, it is a Federal Contract. (Note: search terms must match the database entry. So if your search fails to return possible matches, it may be a result of the search term not matching the database data.)

What are the roles and responsibilities within the University of Maine and within the sponsor regarding Federal Contracts?

Background: Roles Within the University of Maine for Federal Contracts

- **Principal Investigator (PI):**
 - Conduct work:
 - Within time proposed
 - On budget
 - In compliance with terms and conditions of the award
 - Interact with Contracting Officer's Representative (COR)
 - Submit reports/review monthly accounting
 - Monitor Third Party Agreements (Consultants, Subcontractors, Purchased Services, etc.) for:
 - Science

- Spending
 - Reporting
- **Department Administration (DA):**
 - Interact with Office of Research Administration
 - Assist PI with reports and post-award matters
- **Office of Research Administration (ORA):**
 - Check Compliance (i.e., IACUC, IRB, FCOI Disclosure/Training)
 - Negotiate terms and conditions of the award
 - Interact with Contracting Officer (including for prior approvals, i.e., Contracting Officer's Authorization)
 - Primary point of contact (POC) for questions before going to sponsor
 - Institutional signatory (authorized by Board of Trustees to bind University to terms and conditions)

Background: Roles Within Government for Federal Contracts

- **Contracting Officer's Representative (COR):**
 - Monitor technical progress
 - Recommend changes in requirements to the Contracting Officer
- **Contracting Specialist (CS):**
 - Carry out most procedural steps (with approval of CO)
 - No authority to make changes
- **Contracting Officer (CO):**
 - Only person authorized to direct or negotiate changes to Statement of Work, Period of Performance, delivery schedule, etc. (Holds "Warrant" for contract)
 - Authorize reimbursement of costs (i.e., approves invoices)

Basics of Federal Acquisition Regulations (FAR):

- Set of uniform policies and procedures for acquisitions by the Federal Government
- Government shorthand to terms and conditions
- Applicable based on type of work or organizational structure of contractor
- Compliance is mandatory if contained in the agreement and applicable to the work
- Usually contained in "Contract Clauses" section of the contract (Section I)
- Each Government Agency has a Supplement (e.g., DFAR, HHSAR) to provide direction and guidance about how an agency should implement a FAR clause
- Existence of FAR clauses could indicate a hybrid agreement (processed by the Office of Research Administration)
- Comprised of three different sections:
 - Parts 1-51 provides guidance to agencies and contractors – these are your Federal Contracts Officer's concern
 - Part 52 contains the provisions and clauses – many of which will then be contained in the agreement
 - Part 53 contains information regarding forms associated with the FAR