

Guidelines on Externally Funded Awards (EFA)

SECTION I – Common Questions

Keywords: externally funded award (EFA), Institutional Base Salary (IBS), annualized maximum, bi-weekly limit, excessive compensation/payment, overload, contract/appointment type, regular appointment period, contracted/regular job responsibility/duty, Collective Bargaining Agreement (CBA), Faculty Activity Reporting (FAR), course buyout, time buyout, facilities and administrative (F&A) costs, indirect costs, direct costs

1.1) What is the difference between an award and a grant?

The term “**award**” includes different types of funded grants, contracts, agreements, projects, programs, etc. **Externally funded awards (EFA)** are managed and monitored by the Office of Research & Graduate Studies (ORGS).

One of the main responsibilities of ORGS is to guarantee full compliance with rules and regulations at all levels – federal, state, county, city, FGCU, private organization, etc.

1.2) Why must all EFA, federal and non-federal, be managed consistently?

FGCU follows the Office of Management & Budget’s (OMB) **Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards** (commonly called “**Uniform Guidance**”; 2 CFR § 200) for all EFA, including funding that is non-federal. Pursuant to **2 CFR § 200.403 Factors affecting allowability of costs. ... (c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.**

The FGCU **Guidelines for Sponsored Research & Programs** is posted on ORGS website: https://www.fgcu.edu/academics/research/files/sponsored-research-guideline-version_2.0_ada.pdf

Even if an award is funded by a non-federal agency (e.g. state, county, city, private organization, etc.), FGCU must manage all EFA, federal and non-federal, consistently to assure full compliance with rules and regulations referenced above. Otherwise an auditor can determine where federal rules and regulations are concerned, especially if FGCU is not treating all EFA consistently among all faculty.

1.3) What is the difference between overload and extra compensation?

“**Overload**” is the time, effort, or service rendered above and beyond one’s contracted, regular job duties. Usually, overload must be compensated in proportion to one’s regular salary.

“**Extra compensation**” can be in different forms such as bonus, society award, supplement, honorarium, stipend, overload, etc.

Nevertheless, compensation received from EFA must **not** be used to subsidize employee salary and/or become “**excessive compensation/payment**” in violation of one’s allowable “annualized maximum” and/or “bi-weekly limit.”

Referring to the UFF-FGCU Collective Bargaining Agreement (CBA) **ARTICLE 8: Appointment; G. Extra University Compensation Appointments: Extra University**

compensation is defined as **University compensation** for any duties in excess of a full appointment (1.0 FTE). ... Extra compensation must be paid in accordance with applicable laws, rules and procedures. Any compensation paid in excess of the established FTE on the position shall be paid **from OPS funds** at a minimum rate of \$1200 per credit of instructional activities.

Exceptions are limited to the following:

- (1) faculty **paid from grants/contracts during the summer** may at their option and upon approval of their supervisors, receive payment in OPS so long as the grant/contract so stipulates; and
- (2) faculty appointed in departments/units other than their own may receive summer payments **from OPS funds** regardless of the FTE assigned to them in their home units.

1.4) What is the Institutional Base Salary (IBS)?

The Institutional Base Salary (IBS) is the regular compensation/payment an FGCU employee (faculty or staff) received during one's contracted, **regular appointment period**. Depending on different **contract/appointment type**, appointment period can vary from one employee to another such as 9-month, 12-month, 8-month, 6-month, etc.

IBS excludes extra compensation such as bonus, society award, supplement, honorarium, stipend, overload, etc.

1.5) What are the "annualized maximum," "bi-weekly limit" and "excessive compensation/payment"?

The basis is the IBS according to one's **contract/appointment type**. One's contract/appointment type further defines one's contracted, **regular appointment period** that can be 9-month, 12-month, 8-month, 6-month, etc.

"**Annualized maximum**" means that, for any FGCU employee, the total compensation obtained from both EFA and IBS must not exceed one's own annualized 12-month salary.

For example, for an employee with a 9-month appointment (75% FTE), the employee can be compensated up to 3-month (25% FTE) of one's IBS from EFA. For an employee, such as a research faculty, with a 6-month appointment (50% FTE), the employee can be compensated up to 6-month (50% FTE) of one's IBS from EFA. For faculty or staff with a 12-month appointment (100% FTE), since one's regular contracted salary has already been annualized, extra compensation from EFA is prohibited.

Moreover, FGCU employees receive their **contracted, regular salary** in a bi-weekly basis. The total compensation of one's bi-weekly salary, including that from EFA, must not exceed one's bi-weekly rate; that is, the "**bi-weekly limit**."

It is considered an "**excessive compensation/payment**" if an employee acquires compensation from both EFA and IBS exceeds one's "annualized maximum" and/or "bi-weekly limit."

1.6) What are contracted, regular responsibilities/duties for FGCU faculty and staff?

The IBS compensates FGCU faculty and staff for performing individual **contracted, regular** job responsibilities/duties usually delineated in the UFF-FGCU Collective Bargaining

Agreement (CBA) or PD (Position Description). FGCU employees receive their contracted bi-weekly salary regularly.

For faculty, as defined in **CBA 9.2 Annual Assignments; (A) Communication of Assignment; (1)**: *Employees shall be apprised in writing, at the beginning of their employment and at the beginning of each year of employment thereafter, of the duties assigned in **teaching**, thesis/dissertation supervision, **research** and other creative activities, public **service**, and of any other specific duties assigned for that year.*

Therefore, teaching–research–service together are considered **contracted, regular** faculty responsibilities, **not** overload, during one’s **regular appointment period**, usually 9-month or 12-month. On the other hand, in terms of EFA, “research overload” is **not** applicable to faculty during one’s regular appointment period, 9-month or 12-month.

Usually, for faculty with a 9-month appointment, the regular appointment period covers the regular Fall and Spring semesters. For faculty with a 12-month appointment, the regular appointment period spans the Fall, Spring and Summer semesters.

Similar concepts are applicable to FGCU staff and other contracted personnel (e.g. postdoc, technician) depending on one’s appointment type and contracted regular salary.

1.7) How can FGCU faculty or staff participate in EFA during one’s regular appointment period?

For faculty, as defined in **CBA 9.2 Annual Assignments; (A) Communication of Assignment; (1)**: *Employees shall be apprised in writing, at the beginning of their employment and at the beginning of each year of employment thereafter, of the duties assigned ...*

At the beginning of each year, or every semester, faculty should discuss one’s %-effort distributed among teaching–research–service with the proper authority (e.g. Department Chair, College Dean). %-effort can vary from one faculty to another.

For example, 70%teaching–20%research–10%service for a teaching faculty, 25%teaching–65%research–10%service for a research faculty, etc. If faculty has secured EFA during a regular semester (e.g. Fall or Spring semester for a faculty with a 9-month appointment), it is appropriate to adjust faculty’s %-effort immediately or, usually, in the following semester.

Similar concepts are applicable to FGCU staff and other contracted personnel (e.g. postdoc, technician) participating in EFA.

1.8) Can FGCU faculty or staff participating in EFA be compensated by/from EFA?

Within the “annualized maximum” and “bi-weekly limit,” faculty and staff can be compensated by/from EFA. It is considered an “**excessive compensation/payment**” if an employee acquires compensation from both EFA and IBS exceeds one’s “annualized maximum” and/or “bi-weekly limit.”

For example, faculty or staff with a 9-month appointment (75% FTE) can receive up to 3-month (25% FTE) of one’s IBS compensated from EFA such as during the summer for actual contributions to EFA. Compensation from EFA for faculty or staff with a 12-month appointment (100% FTE) is prohibited since one’s salary has already been “annualized.”

For faculty or staff with an 8-month appointment (66.66% FTE), the employee can be compensated up to 4-month (33.34% FTE) of one's IBS from EFA.

1.9) How can faculty or staff be compensated for participating in EFA?

The Principal Investigator (PI) is fully and solely responsible for requesting a reasonable and adequate budget (a.k.a. **Direct Costs**) in EFA to successfully carry out the EFA. Direct costs are to be 100% spent on the award. Upon PI's request, budget or budget category can be modified with prior approval by ORGS and/or the funding agency beforehand.

For **9-month faculty**, it is appropriate to request budget in Direct Costs for "**course buyout**" during one's regular appointment period (Fall and Spring semesters). Course buyout is for faculty to be released from one's regular teaching assignment/responsibility. The budget requested from EFA is for the Department, and/or College, to hire a substitute to cover the course(s) originally assigned to the faculty. In this case, faculty will have a reduced teaching load and more time to devote oneself to EFA.

During the **summer**, faculty with a 9-month appointment can receive up to 3-month of one's IBS from EFA for actual time-and-effort contributing to EFA. Compensation from EFA during the summer is for actual workload contributed to EFA, **not** an overload.

For **12-month faculty**, it is appropriate to request budget in Direct Costs for "**course buyout**" during one's regular appointment period (Fall, Spring, and Summer semesters). Faculty then can be released from one's regular teaching assignment/responsibility and have more time to work on one's EFA. The budget requested from EFA is for the Department, and/or College, to hire a substitute to cover the course(s) originally assigned to the faculty. Since faculty salary has already been "annualized," additional compensation from EFA is prohibited in any semester, including summer.

Course buyout rates vary from one discipline to another. Faculty needs to consult with Department Chair or College Dean for course buyout rates.

For **12-month staff**, it is appropriate to request budget in Direct Costs for "**time buyout**" during one's regular appointment period (Fall, Spring, and Summer semesters). Time buyout is for staff to be released from one's regular job duties in order to work on EFA. The budget requested from EFA is for the Department, and/or College, to hire a substitute to cover job duties originally assigned to the staff. In this case, staff will have a reduced workload to work on EFA. Since staff salary has already been "annualized," additional compensation from EFA is prohibited in any semester.

For **non-9&12-month faculty and non-12-month staff**, a reasonable budget can be requested in Direct Costs as long as both criteria of "annualize maximum" and "bi-weekly limit" are met.

It is critical that, **prior to** approaching ORGS for budget planning and justification, the PI should have already negotiated with participating faculty and/or staff, along with the proper authority, for approval of course buyout and/or time buyout (e.g. total hours to be released, total \$ amount for the release).

1.10) What is the consequence of non-compliance with excessive compensation/payment?

ORGS faces consequential scrutiny and audit for compliance of EFA, federal or non-federal. When audited, FGCU must provide record and evidence so that auditors can verify that EFA

budget was expended in full compliance with rules and regulations at all levels – federal, state, county, city, FGCU, private organization, etc.

Incompliant EFA compensation (e.g. excessive compensation/payment) can result in substantial financial penalty, negative publicity for the university, and disallowance of future funding. Cases of **Settlements for Noncompliance in Research** are exemplified in Attachment 1.

1.11) Can I acquire extra compensation from EFA as a consultant?

Acquiring extra compensation from EFA for other types of service (e.g. consultant) can be extremely difficult, although it is not absolutely impossible. Prior approval from the funding agency is required. A Checklist on **Extra Compensation from Externally Sponsored Research Grant/Contract** is posted on ORGS website:

https://www.fgcu.edu/academics/research/files/checklist-on-extra-compensation_ada.pdf

1.12) How can FGCU be compensated for participating in EFA?

As approved by the U.S. Department of Health & Human Services (DHHS), it is lawful for FGCU to be compensated by the **facilities and administrative (F&A) costs** (formerly known as **indirect costs**). F&A costs are actual costs incurred to conduct or support research operation, service, and the normal business activities of an institution but they cannot be readily identified with or directly charged (e.g. the use of research lab space) to a specific EFA.

F&A costs compensate and mitigate FGCU's actual "overhead" costs such as for ORGS to manage and monitor EFA, for other offices/divisions to provide services in support of EFA including ITS, telecommunications, General Counsel, controller, procurement, internal audit, etc.

1.13) How are F&A costs managed at FGCU?

ORGS operates in accordance with federal rules and regulations as well as **Florida Statutes 1004.22 Divisions of sponsored research at state universities, (5)**: ... *Moneys received for overhead or indirect costs and other moneys not required for the payment of direct costs shall be applied to the cost of operating the division of sponsored research. Any surplus moneys shall be used to support other research or sponsored training programs in any area of the university.*

For years, FGCU's EFA does not accrue sufficient F&A costs to generate **surplus** (i.e. positive net F&A revenues); hence, F&A return is unachievable at the present time.

Moreover, ORGS has been managing more than 40% of EFA with 0% F&A rate (i.e. \$0 F&A accrued), and about 70% of EFA with F&A rates below 17% (the off-campus F&A rate approved by DHHS). The effective F&A rate (actual F&A costs divided by the actual EFA expenditures of the Fiscal Year) has been constantly below 8%.

1.14) Can FGCU faculty/staff participating in EFA be compensated by/from other non-EFA sources of funding?

Yes. If FGCU faculty or staff participating in EFA does **not** receive any compensation from any EFA, one can be compensated by/from other non-EFA sources of funding. If one's time-and-effort is considered above and beyond one's regular job duties and/or "overload," **FGCU**

POLICY 3.029: Overtime and Special Compensatory Leave should be referenced for an appropriate compensation rate.

It is recommended that whoever reviews and approves salary compensations, from EFA or non-EFA, pay attention to criteria of “annualized maximum,” “bi-weekly limit,” and “%-effort.”

1.15) How are overtime and overtime pay defined at FGCU?

Overtime is defined by **FGCU POLICY 3.029: Overtime and Special Compensatory Leave** (August 3, 2020): *Hours of actual work performed by an employee in excess of forty (40) hours during the established workweek or in excess of the number of hours indicated in an extended period for law enforcement officers. The term "hours of actual work" excludes leave taken and holidays occurring during the workweek.*

Exempt Classification: *A class which, based on the duties and salary test of the FLSA, has been determined to be “exempt” from the FLSA minimum wage and Overtime requirements, and in which the employee is not eligible to receive Overtime pay or compensatory leave time.*

Non-Exempt Classification: *A class which, based on the duties and salary test of the FLSA is “not exempt” from the FLSA minimum wage and Overtime requirements, and in which the employee is eligible to receive Overtime pay or compensatory leave at a rate of one and a half (1 ½) times the hourly rate for Overtime hours worked.*

1.16) Is development of instructional materials for EFA considered extra teaching load?

No! “Regular teaching load” or “normal instructional load” accounts for instructional activities defined by “**Instructional Course Activity**” in **Faculty Activity Reporting (FAR)**. Usually, predetermined contact hours and office hours must be fulfilled for every assigned instructional course.

As defined in **CBA 9.2 Annual Assignments; (A) Communication of Assignment; (1):** *Employees shall be apprised in writing, at the beginning of their employment and at the beginning of each year of employment thereafter, of the duties assigned in **teaching**, ...* “Instructional Course Activity” is assigned to faculty, usually by the department chair, as a part of one’s **contracted, regular** teaching responsibility during one’s regular appointment period, 9-month or 12-month.

Development of instructional materials for EFA is defined in FAR as “**Non-instructional Related Activity—Other Instructional Effort/Non-Credit Generating**”: *Performance of instructional-related activities which are not reported on the Instructional Activity File.* By no means is participation in EFA an assigned teaching responsibility. Moreover, no contact hours and office hours are required for working on EFA. It could be part of faculty’s research/scholarly activity and/or professional service; that is, %-effort in research or service.

1.17) How to distinguish EFA from gifts/donations?

ORGS sometimes works with the University Advancement/Foundation to identify different types of award and whereabouts of the award. The attached table of **Grants vs. Gifts** (Attachment 2) can be a reference to distinguish EFA from gifts/donations. In general, an EFA is managed by ORGS and a gift/donation is managed by the University Advancement/Foundation.

SECTION II – Proposal Submission and Budgetary Plan

Keywords: Internal Clearance Form (ICF), budget and budget justifications, Modified Total Direct Costs (MTDC), off-campus, sub-contract/sub-award/sub-recipient, cost sharing, effort reporting

2.1) Who is authorized to submit EFA proposals on behalf of FGCU?

ORGS is the sole entity authorized to submit EFA proposals on behalf of FGCU.

2.2) Who is authorized to sign proposals, award agreements and other legal documents on behalf of FGCU?

The authorization to sign proposals, awards and other non-financial official documents related to EFA is vested at ORGS. For example, the Director of Sponsored Research signs invoices, financial statements and other documents related to financial activities on EFA.

2.3) Who is eligible to serve as the Principal Investigator (PI)?

A principal investigator (PI), and/or Project Director (PD), must be a **full-time** FGCU faculty or staff with matching expertise and credentials.

The PI bears responsibilities for the intellectual leadership of the EFA. The PI is fully and solely responsible for directing the EFA, the financial oversight of the EFA, and compliance with relevant rules and regulations at all levels (federal, state, county, city, private organization, etc.) as well as terms and conditions of the funding agency.

2.4) Is the PI, or faculty or staff, authorized to commit university resources?

No. Faculty and staff members are not authorized to commit any university resources in any contractual arrangements. Department Chairs, Deans, the Provost, Vice Presidents, and the President are authorized to commit university resources within one's authorized purview. The PI must acquire prior approval from proper university officials for any commitment of university resources to EFA before submitting one's proposal to ORGS.

2.5) How do I route an EFA proposal for approval and submission?

The first step for PI is to prepare one's EFA proposal, including budget and budget justifications, and complete the **Internal Clearance Form (ICF)**. Then the PI must electronically route the ICF and proposal through one's Department Chair and Dean for their review and approval before routing the ICF and proposal to ORGS for final review and approval. Once approved by ORGS, ORGS will submit the proposal to the funding agency. An ICF is required for all EFA such as:

- a **new proposal** submitted to a funding agency.
- a **revised proposal** submitted to the funding agency for budget modifications. Technical modifications does not require re-submission of a new ICF.
- a **continuation proposal** submitted to a funding agency even if continual funds after the first years were already approved by the funding agency in the original proposal.
- a check or award letter received in ORGS while no ICF or proposal exists.

2.6) What are the basic components in an EFA budget?

ORGS will assist the PI in developing the proposal budget. Some of the common budget items include:

- Salaries & Wages
- Fringe Benefits
- Travel
- Materials & Supplies
- Equipment (items over \$5,000)
- Other Direct Costs (e.g. sub-recipient, service agreement)
- F&A (Indirect) Costs

2.7) What are Modified Total Direct Costs (MTDC)?

Modified Total Direct Costs (MTDC) includes all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each sub-award (regardless of the period of performance of the sub-awards under the EFA). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs, and sub-award expenses in excess of \$25,000. MTDC is used to calculate the F&A Costs which compensates and mitigates FGCU's overhead in support of research activities for **all** EFA at FGCU.

2.8) Is my proposal eligible for the off-campus F&A rate?

Off-campus is defined in the **Indirect Cost Rate Agreement** between FGCU and the U.S. Department of Health & Human Services (DHHS) as: For all activities performed in facilities not owned by FGCU and to which rent is directly allocated to the project(s) the off-campus rate will apply. If more than 50% of a project is performed off-campus, the off-campus rate will apply to the entire project.

2.9) How do I handle sub-contracts/sub-awards/sub-recipients in my proposal?

Each sub-contract must be identified in the proposal budget, usually under the contractual line. In addition, the PI must prepare a separate itemized budget and scope of work for each sub-contract reflecting that F&A costs of each subcontract has already been approved by individual institution. FGCU will only assess F&A costs on the first \$25,000 of each subcontract.

The PI must provide ORGS with the contact information of the sponsored research office of the subrecipient's institution as there are specific forms required from sub-recipients for auditing purpose. In most cases federal agencies also require the same information from the PI of each subcontract as is required of the PI at FGCU. Therefore, it is important that, when involving subcontracts in EFA, the PI must allow additional time for the paperwork to be processed at the subrecipient's home institution.

2.10) What is cost sharing?

Cost sharing (a.k.a. matching) refers to any project expenses that are not borne by the funding agency. Often cost sharing takes the form of "**effort**," that is, the provision of employee time-and-effort and related fringe benefits that were committed in support of EFA but are paid for by other non-EFA sources of funding. FGCU permits cost sharing only when required by the funding agency. All components of cost sharing must be pre-approved by

the PI's Department Chair, Dean, and/or the Provost before submitting the proposal to ORGS.

FGCU must provide record and evidence so that funding agencies and auditors can verify that committed cost sharing has been fulfilled during the period of performance. Moreover, the PI is responsible for tracking the committed cost share.

It should be noticed that any compensation paid in excess of, for example the NIH, salary cap is considered voluntary cost sharing; that is, committed cost sharing by the institution which must be certified. Cost sharing should never be volunteered.

2.11) What is effort reporting?

Uniform Guidance Subpart e §200.430 contains the federal regulatory requirements for internal controls over certifying actual time-and-effort expended on EFA. The University's practice is to utilize an after-the-fact effort reporting system to certify that salaries charged, or cost shared to EFA, are reasonable and consistent with the actual work performed. Institutions receiving federal funding must maintain processes, procedures and records that are supported by a system of internal controls which provide reasonable assurance that the compensation for salary, wages, and fringe benefits charged to EFA are:

- properly allocated
- reasonable for the project
- allowable under federal regulations and the EFA documents
- in conformity to the established policies and procedures of FGCU
- consistently applied to all EFA regardless of the source of funds; that is, federal and non-federal EFA
- no more than the percentage of effort (%-effort) actually devoted to EFA
- not to exceed the "annualized maximum" and/or "bi-weekly limit"

Effort reporting is the mechanism used to confirm that salaries and wages charged to EFA are reasonable in relation to the actual work performed. As a condition of accepting any EFA, FGCU must assure that the effort expended on EFA activity justifies the salary charged to them. Certification of an effort report represents an employee's agreement that the salary charges shown on the effort report reasonably reflect the effort expended on EFA as well as other activities for which they were compensated by FGCU.

All personnel involved in certifying effort must understand that severe and substantial penalties as well as disallowance of future funding can result from inaccurate, incomplete, or untimely effort reporting. That is, incompliant EFA compensation (e.g. excessive compensation/payment) can result in significant financial penalty plus negative publicity for the university. Cases of **Settlements for Noncompliance in Research** are exemplified in Attachment 1.

2.12) What are "Participant Support Costs"?

Uniform Guidance 2 CFR §200.75 defines "Participant Support Costs" as direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to, or on behalf of, participants or trainees (but **not** FGCU employees) in connection with **conferences or training projects**. "Participant Support Costs" do **not** include expenses incurred to incent or enable research subjects to participate in studies, such as gift cards, stipends, dependent care costs, parking fees, transportation, etc.

“Participant Support Costs” are usually allowed for EFA to host a conference or training program, but not routinely allowed on research projects. Typically, these expenses are incurred for EFA including an education or outreach component. The funding opportunity announcement (FOA) will specify when these expenses are allowable as direct costs.

2.13) What can I do if I am unable to complete the EFA by the end date?

The PI, through ORGS, can request the funding agency to extend the period of performance. The PI must notify the Director of Sponsored Research of any request to extend one’s EFA. When and how to submit such a request depends on the funding agency. There can be separate requirements if the PI has previously requested an extension for the EFA. In all instances, the PI will need to provide justifications as to why the extension is important and necessary. An extension for spending out the account is **not** a valid reason to extend an EFA.

SECTION III – Regulatory Research Compliance

Keywords: human subjects research, IRB, animal studies, IACUC, Export Controls, hazardous materials, foreign influence

3.1) Who do I contact if my project involves human subjects research or animal studies?

The ORGS Research Compliance Coordinator is the individual who works closely and serves as a liaison with FGCU's Institutional Review Board (IRB) and Institutional Animal Care & Use Committee (IACUC). The PI can contact the Research Compliance Coordinator to inquire general questions about the IRB or IACUC process.

3.2) What Is Export Control and why is it important?

Export Controls are U.S. laws and regulations that regulate and restrict the release of critical technologies, information, and services to foreign nationals, within and outside of the United States, and foreign countries for reasons of foreign policy and national security.

The U.S. Government controls exports of sensitive equipment, software and technology as a means to promote our national security interests and foreign policy objectives. Through the export control system, the U.S. government can effectively:

- provide for national security by limiting access to the most sensitive U.S. technology and weapons
- promote regional stability
- take into account human rights considerations
- prevent proliferation of weapons and technologies, including of weapons of mass destruction, to problem end-users and supporters of international terrorism
- comply with international commitments, i.e. nonproliferation regimes and UN Security Council sanctions and UNSC resolution 1540

Export control laws are in place to protect U.S. national security, foreign policy, and economic interests without imposing undue regulatory burdens on legitimate international trade. An export control license is the U.S. government mechanism to allow and trace transfers of export controlled technologies.

Export control applies to all research activities conducted in EFA as well as to faculty, staff and students working on EFA. Having knowledge of export regulations can be imperative:

- completion of the **International Shipping Form** is required when sending data, technology through U.S. mail or an e-mail to another country, intellectual property or tangible items (i.e. equipment) out of the country.
- employ non-U.S. persons in one's laboratory; perform applied research in a sensitive area; or having lab equipment that may be classified under export control regulations. Also, if one works with third party's data, technology, intellectual property or equipment, even if the third party is a corporation.
- work with embargoed countries or countries with OFAC sanctions. Visit the U.S. **Department of Treasury** website for a list of countries with sanctions.
- while undertake any international travel. This requires completion of FGCU's **International Travel Screening** form.
- visit the FGCU **University's Export Control** website for more information.

3.3) How do I ship hazardous materials domestically?

This requires completion of FGCU's **Domestic Shipping of Hazardous Materials** form. If, as part of the EFA, one intends to transmit or ship anything outside of the U.S. or if one anticipates to perform non-fundamental research with non-U.S. persons, the PI must inform the Research Compliance Coordinator ASAP as to who will review the export aspect of the EFA for compliance with federal laws and regulations.

3.4) What is foreign influence and how does it affect EFA?

FGCU encourages and values international collaborations and is committed to academic freedom and the ability of FGCU researchers to communicate, collaborate and exchange ideas with people around the world. **Transparency** in foreign collaboration is the most important. Timely and full disclosure protects every participant in EFA, EFA data and information, FGCU, and the Federal government. Few example, requirements from few federal funding agencies are given below:

- **National Science Foundation (NSF)** issued a statement in October 2018 reminding U.S. universities of the need to strictly and transparently adhere to conflict of interest and time commitment policies. And in June 2019 they announced an independent scientific advising commission (JASON) to further study issues related to science and security.
- **National Institute of Health (NIH)** issued a notice in March 2018, reminding research institutions that PIs, co-PIs and sub-awardees must disclose all foreign financial interests to avoid the risk of inappropriate foreign influences on research integrity.
- **Department of Energy (DoE)** announced plans in December 2018 for an International Science Technology Engagement Policy focusing on intellectual property, conflict of interest, and disclosure. The latest memorandum in June 2019 announced that DoE will restrict its employees, contractor personnel, and grantees from participating in talent recruitment programs operated by “sensitive” countries.
- **NASA** has had restrictions on using NASA funds to enter into agreements “to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company.”

3.5) What steps should I take with regard foreign influence?

Every participant in EFA must disclose financial interests on the **Financial Disclosure Form**, located on the ORGS website. One also can refer to **FGCU Policy 2.018 Financial Conflict of Interest in Sponsored Research** for more information.

Depending on different activities, one may need to complete the “**Request for Approval of Outside Employment/Activity Form**” and follow the procedure for annual reporting requirements in the **FGCU Regulation: FGCUPR5.012 Outside Employment Activities**.

The bottom line is **transparency**. If one has any questions as to what should be reported regarding collaborations with non-U.S. persons or entities, please contact the ORGS Research Compliance Coordinator.

When submitting an EFA proposal, one must complete and submit the **Internal Clearance Form (ICF)** to ORGS in order to have the Export Control, foreign influence, and other research compliance information reviewed for any possible conflict or concern.

ATTACHMENT 1

Settlements for Noncompliance in Research

Effort Reporting must be completed and certified on a regular basis. Failure to meet these requirements puts Florida Gulf Coast University at risk for audit financial penalties. The following are some of the universities that have been fined due in part to effort reporting violations:

University of Minnesota (1998)	\$32 million	Misuse Federal Funds
Harvard University (2000, 2004, 2010)	\$3.25 million	Costing Issues
Northwestern University (2003)	\$5.5 million	Committed Time/Effort
University of Southern Florida (2003)	\$4.1 million	Effort Reporting
Johns Hopkins University (2004)	\$2.7 million	Effort Certification
East Carolina University (2004)	\$2.4 million	Questioned Costs
University of California (2005)	\$2.1 million	NIH Salary Cap Limitation
Florida International University (2005)	\$11.5 million	Effort Certification
University of Alabama Birmingham (2005)	\$3.4 million	Effort Certification
Mayo Foundation (2005)	\$6.5 million	Mischarging Federal Funds
University of Connecticut (2006)	\$2.5 million	Excessive Compensation
Clark Atlanta University (2006)	\$5 million	Reporting and Accounting
Yale University (2008)	\$7.6 million	Effort Reporting
University of Florida (2015)	\$19.9 million	Salary & Admin Costs (2005 – 2010)
Northeastern University (2015)	\$2.7 million	Advance & Other Payments (2001 – 2010)
Columbia University (2016)	\$9.5 million	Excessive F&A Costs (2003 – 2015)
New York University of Medical Center	\$15 million	Inflated Research Grant Cost
University of Southern California	\$400,000	Questioned Costs

ATTACHMENT 2

Grants vs. Gifts

√ = Yes
 X = No
 § = Sometimes

CHARACTERISTICS	AWARDS	
	Grant/Contract	Gift
Specific deliverables (e.g., Technical/progress report, prototype)	√	§
Defined scope of work	√	X
Defined period of performance	√	X
Line item budget approved by the sponsor	√	X (?)
Approval of budget modification, if any, by the sponsor	√	X (?)
Tax implications	§ / X	√
Facilities & Administrative (F&A; Indirect) Costs	√	X
Invoicing	√	X
Return of unexpended funds	√	X
Obligated to report the use of fund to the sponsor	√	§
Awards are irrevocable/nonreciprocal	X	√
Restricted use of funds	√	§
Risk for penalty	√	X
Compliance with guidelines/policies of the sponsor	√	X
Separate fund number required for financial monitoring	√	X
Funded by industries, foundations, or other organizations	√	√
Funded by an individual	X	√
Processed/received/monitored/recorded by the Research Office	√	X
Processed/accepted/acknowledged/recorded by U Foundation	X	√
Audited by sponsor	√	X