

Term & Condition No. 58 for Major Facility Cooperative Agreements

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Presentation Topics

- Why was the “new” T&C added?
- What is the new T&C?
- How will we evaluate responses to the T&C?



Old T&C

- General CA Financial & Administrative Terms and Conditions, Article 57, Partnerships with Foreign Collaborators
 - a. The awardee shall provide **written notification** to the cognizant NSF Program Officer **prior to entering into formal arrangements** with foreign collaborators. In the notification, the awardee should specify: the projects and individuals involved; the purpose of the cooperative program; the proposed duration; location; and, the magnitude of the proposed activity.
 - b. This provision is **not intended** to require notifications to the NSF of the **routine use** of awardee services and facilities by foreign investigators or foreign students, or the routine use of foreign facilities by project staff **in accordance with the awardee's standard policies and procedures**.



Weaknesses of Old T&C Article 57

- Requirement for notification of foreign collaborations has existed since at least 2003, with unchanged language.
 - Lack of specificity on what constituted a collaboration that needed to be reported.
 - Lack of NSF thinking on what to do with the information.
 - No requirement to wait for any NSF input before moving forward (but also note Article 61 [previously Article 60] on “Other Funding”).
- The global environment has changed.



Changes in the Global Environment

- Undisclosed foreign collaborations have become a major issue in last few years.
 - Conflicts of interest and conflicts of commitment for investigators.
 - Diversion of intellectual property/knowledge, especially pre-publication.
- U.S. and NSF have been vulnerable to exploitation by entities that do not share values of openness, transparency, and reciprocity in collaboration.
 - “Whole of nation” approach by China is much in the news.
- Bipartisan issue: Concerns on both sides of the aisle in Congress.
 - Senate “Safeguarding American Innovation Act.”
 - <https://www.portman.senate.gov/sites/default/files/2020-06/Final%20Safeguarding%20American%20Innovation%20Act%20Bill%20Text.pdf>

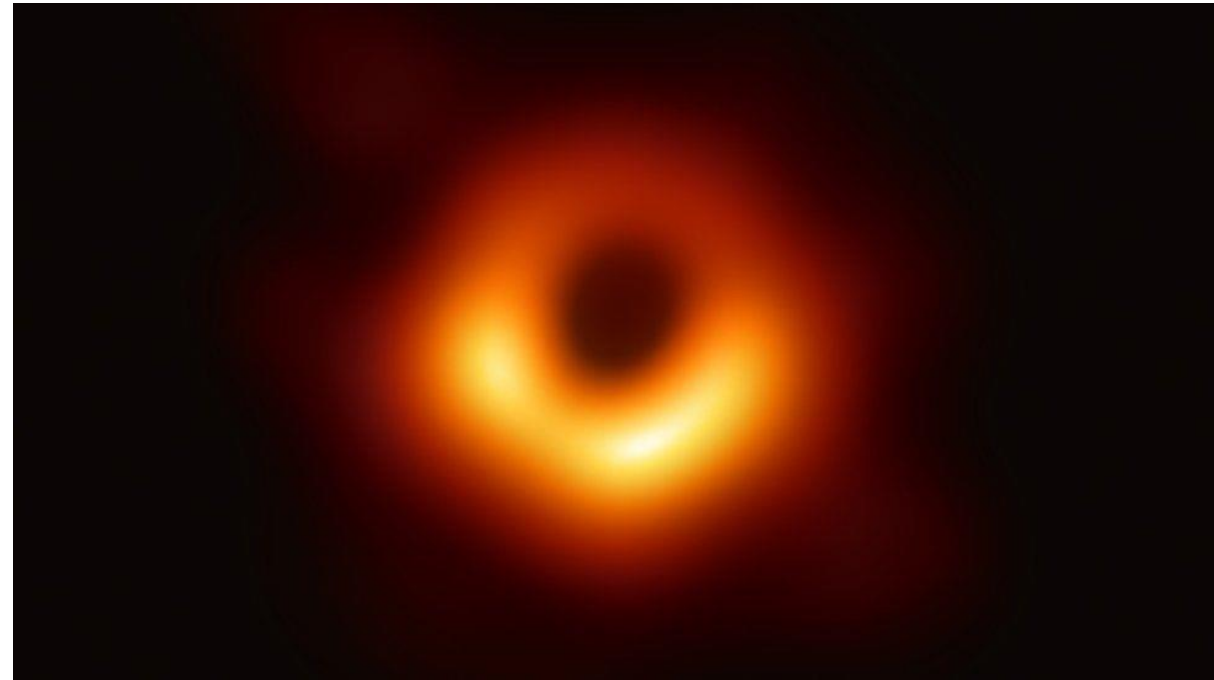


International Science is Frontier Science

PRINCIPLED INTERNATIONAL COLLABORATION IS CRITICAL TO SUCCESS

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- Enables cutting-edge research that no nation can achieve alone
- Strengthens scientific & diplomatic relations
- Leverages resources, including funding, expertise, and facilities
- Trains a robust S&T workforce capable of solving global problems
- International students and scholars contribute significantly to the U.S. research enterprise



In April 2019, a global collaboration of scientists at 60 institutions operating in 20 countries and regions captured the first ever image of a black hole.

Photo credit: NSF, The Event Horizon Telescope Collaboration

Reference: Elizabeth E. Lyons, E. William Colglazier, Caroline S. Wagner, Katy Börner, David M. Dooley, C. D. Mote Jr., and Mihail C. Roco, "How Collaborating in International Science Helps America " Science & Diplomacy, Vol. 5, No. 2 (June 2016).

What Does International Collaboration Look Like?

- International scientific research collaborations with **transparent** and **reciprocal** exchanges for mutual benefit
- Leveraging of complementary skills, facilities, sites, and resources
- Exchange of personnel when clear intellectual contributions are identified, and organizational affiliations and sources of funding are transparent
- International collaboration **benefits the scientific enterprise**

Improper foreign government interference ≠ International collaboration

NSF Risks from Improper Foreign Government Interference

- National security—exploitation of research with potential defense applications prior to open publication.
- Economic security—exploitation of research with potential economic ramifications prior to open publication.
- NSF funding used for duplicative research (“double-dipping”) or not credited.
- All these lead to NSF reputational risk as well as other risks to US.
- NSF’s major facilities have world-leading capabilities, and thus can be used to shortcut developments to the advantage of nations that do not share values of openness, transparency, and reciprocity.



New T&C 58 in Supplemental FATC for Major Multi-User Research Facility Projects and FFRDCs

- **Article 58 (previously 57). Partnerships with Foreign Collaborators**, is deleted in its entirety and replaced with the following:
- **58. Foreign Collaboration Considerations**
 - a. Consideration of new collaborations with non-U.S. organizations*
 - b. Existing collaborations with non-U.S. organizations*
 - c. Description of collaborations that should be reported*



Key Elements of New T&C 58

- a. *New collaborations*: Advance notification required, and NSF normally will provide guidance within 45 days. **This is the most significant new section.**
- b. *Existing collaborations*: Effectively the same information that already should have been provided under old T&C 57, paragraph a.
- c. *Description of collaborations*: Concept and definition of collaboration in terms of “things of value” (cf. PAPPG II.C.2.h, *Current and Pending Support*).
 - Also includes exception for normal usage of facilities under published process for access, similar to that in old T&C 57, paragraph b.



Review of Proposed International Collaborations

1. Awardee submits notification on proposed international collaboration to the cognizant NSF PO and the Grants and Agreements Officer
2. PO assesses submitted information and shares with Chief of Research Security Strategy and Policy (CRSSP)
3. CRSSP convenes review and returns guidance to PO, for awardee
 - Do proposed “things of value” benefit the US research community?
 - Is additional NSF resource commitment required?
 - Is there potential impact on ability to fulfill terms of NSF award?
 - Are there issues of US national/economic security or competitiveness?
 - Are transparency and reciprocity satisfied?
 - Does the overall scientific enterprise benefit?

