UNIVERSITY OF MIAMI
SPONSORED PROGRAMS POLICIES AND PROCEDURES
Section G: Reporting
Policy G4: Sponsored Award Appeals Process

Approval: April 9, 1996
Reviewed: December 2006

PURPOSE:
To establish the guidelines and procedures to be followed for sponsored award appeals.

DEFINITIONS:
Administrative/Unilateral Decision: A sponsoring agency’s one-sided written decision disagreeing with the university’s claim for costs incurred on a sponsored award, usually resulting in a request for a refund.

Appeals: The process by which a review is requested by the university regarding an adverse administrative decision made by an auditor or other authorized representative of a sponsoring agency. The objective of an appeal is to have the administrative decision reversed.

Material Amount: For purposes of this policy, an amount is material if the expected value of the amount to be recovered through the appeal is equal to or greater than the estimated cost of the appeal procedure. The determination as to whether or not an amount is material is made by the Controller.

POLICY:
The university will utilize each sponsor’s appeals process when post-award disputes arise which cannot be resolved through negotiation or other administrative processes. The appeals process will be used when the university has a reasonable basis for believing the authorized sponsor official has made a decision which is inequitable to the university, and involves either a material amount of money or a principle which is fundamental to the university. As a general rule, the following sponsor determinations can be appealed:

- Determining an expenditure is not allowable under a grant;
- Determining the university has failed to discharge its obligations to properly account for grant funds;
- Disapproving of a university’s written request for permission to incur an expenditure during the term of a grant;
- Terminating a sponsored award for failure of the university to carry out its approved project proposal in accordance with the applicable law and the terms of such assistance, or for failure of the grantee to comply with any law, regulation, assurance, term, or condition applicable to the grant;
- Determining that the sponsored award is void; or
- Determining indirect cost and fringe benefit rates.
REFERENCES:

*Code of Federal Regulations, Title 45, part 16*
*Code of Federal Regulations, Title 42, chapter 1.*

PROCEDURES:

1. Seeking the reversal of a sponsor’s decision through the appeals process may be costly and time consuming. Therefore, every effort is made by the university to resolve post-award disagreements through negotiations. If, however, negotiations do not result in an equitable resolution, the university will consider pursuing the issue through the appeals procedure specified by the sponsor.

2. The following steps apply to the appeals process to be used with federal sponsors. Non-federal sponsor appeals are treated individually in accordance with the provisions of the agreement between the university and the non-federal sponsor.

3. In any appeals process, a timely decision to appeal is required. This is a result of the time constraints imposed by the federal sponsors for notification by the university that it intends to appeal. In most instances, the university’s application for review must be postmarked no later than 30 days after the postmark date of the sponsor’s unilateral notification.

4. If the federal agency’s determination is adverse to the university, the appeals process may be utilized; however, all established informal agency procedures must be exhausted before the issues related to the determination are submitted to the appeals process.

5. The Director of Sponsored Programs (SP) Financial Administration is designated by the university to receive federal agency notifications that a final unilateral decision has been made by an authorized agency official regarding a specific facet of the university sponsored award activity. The agency official is required to:
   - set forth the reasons for the determination in sufficient detail to enable the university to respond; and
   - inform the university of its opportunity to appeal.

6. Upon receiving notification of the unilateral decision, the Director will obtain the regulations for the agency and use them as a guide for determining the specific actions (steps and conditions) that can be taken.

7. The Director will review the sponsored award file to determine if all informal dispute or appeal procedures have been exhausted.

8. The Director is responsible for determining if all informal procedures established by the regulations have been complied with. If so, the Director must convey this, in writing, to the Controller.

9. The Director, under the Controller’s guidance, is responsible for conducting an investigation to determine the validity of the federal agency’s position and the support available for the
university’s rebuttal position. If the agency is correct, the Director will evaluate the steps to be taken, including:

- the rationale for accepting the agency’s position;
- compliance with any effect that the determination may have on university policy, procedures, or operations; and
- computation of the monetary impact, if necessary, of that compliance.

After evaluation, the Director will inform the Controller. The Vice President and Treasurer will participate in the final decision, if material.

10. If the Director determines that the university has a reasonable and supportable rebuttal, and that the reversal of the agency position is cost-beneficial to the university or supports an objective or principle of the university, then the Director will inform the Controller indicating the nature of the rebuttal, available sources of actual documentation to support the university’s rebuttal position, and an estimate of the time required to prepare a formal rebuttal (including in-house and outside consultant’s time and legal costs) and a recommendation as to whether an appeal should be sought. If the time required to prepare an appeal is estimated to extend beyond the 30-day period allowed for response, a draft letter requesting an extension will be prepared by the Director and sent to the head of the federal agency issuing the decision. All information, for material items, will be forwarded to the Office of the Vice President and Treasurer.

11. If an agency does not respond to a university request for expenditure approval, an appeal may be filed as if non-response were disapproval. The appeal must be filed within 90 days of the postmarked date of the university’s request to incur an expenditure.