AIR FORCE HRPO INFORMATION SHEET

Human Subjects Research:

Roles and Responsibilities during DoD-Supported Extramural Research

Section 1: Regulatory Requirements, Human Subjects Research (HSR) Protection

a. The Department of Defense (DoD) requires specific language in FAR-based contracts or "other comparable agreements" (e.g., grants, assistance agreements, and cooperative research and development agreements) whenever efforts include, or might include, HSR. Such language instructs awardees to specific requirements and responsibilities during all periods of performance. In particular, DFARS clause **252.235-7004** (attached at the end of this Information Sheet) alerts performers that any research which involves human subjects is to be reviewed and approved by a Human Research Protection Official (HRPO). This HRPO review is to be completed prior to a DoD-supported performer conducting the contracted research activity.

b. Prime awardees have a non-delegable responsibility to oversee the timely execution of DoD-supported research. They will ensure required contract clauses and responsibilities (including required HRPO language), flows down to subcontractors who support HSR. In addition to inspection and acceptance of the contracted deliverable(s), external performers also agree to the following whether or not an institutional review board (IRB) has determined the effort to be exempt from Common Rule requirements:

1) Allow DoD representatives to independently review and inspect all aspects of the awardee's research. Given that this may include access to identifiable information or protected health information, all research participants must be made aware of this requirement, i.e., via the informed consent.

2) Allow DoD representatives to prohibit research that is determined to present unacceptable hazards or is found to be non-compliant with DoD regulatory requirements.

c. HRPO must perform an administrative review of the research before the activities that involve human subjects can begin (e.g., human subject recruitment and related data collection). Accordingly, the HRPO must do the following:

1) Concur with the non DoD institution's Human Research Protection Program (HRPP), Institutional Review Board (IRB) or Ethics Committee (EC) review and approval whenever activities have been determined to be (a) research not involving human subjects or (b) research involving human subjects per the regulatory provisions of 32 CFR Part 219.

2) Confirm the institution has a US Federal Wide Assurance (FWA) if conducting non-exempt research. If DoD institutions are engaged in the extramural research, they must have a DoD Assurance.

3) Review the research protocol for compliance with Part 3.6 of DoD Instruction (DoDI) 3216.02_DAFI 40-402 "Protection of Human Subjects and Adherence to Ethical Standards in DoD-Conducted and Supported Research". This will ensure that the study is compliant with applicable Federal and DoD regulatory requirements prior to commencement of research activities.

4) Review and accept non-DoD IRB-approved substantive changes [to an approved research protocol] before they are implemented.

5) When applicable, ensure the non-DoD IRB conducts an appropriate continuing review at least annually.

6) When research involving human subjects is conducted in a foreign country, confirm the non-DoD IRB/EC confirmed the HSR is compliant with all applicable laws and requirements of each foreign country where it will be conducted, and the IRB/EC considered knowledge of the local research context including cultural sensitivities in the location where the research will take place.

Section 2: Requirements for Approval of Extramural Human Subjects Research

a. **Federal Assurance of Compliance**. Each institution engaged in non-exempt human subjects research must have a current Department of Health and Human Services, Office for Human Research Protection (OHRP) FWA or DoD Assurance. An IRB review (by one of the IRBs listed on the institution's assurance) or identified in an Institutional Agreement for IRB Review *must* be provided. To avoid delays in the HRPO approval process, DAF PM/PO/TPOC should verify that the external performer(s)/institutions engaged in the research have active assurances.

b**. Investigator Qualifications.** Documentation of human subjects protection training for all engaged personnel will be provided to the HRPO. Such description will assist in the determination of which institutions are engaged in the research.

c. **DoD-Support (including recruitment of DoD-affiliated personnel)**. If Department of the Air Force (DAF) affiliated personnel will be targeted for recruitment to participate in HSR or are providing any other support, and the supporting DAF institution does not have an established human research protection program (HRPP), the command or component leadership must establish a limited HRPP with the DAF Component Office of Human Research Protection (COHRP). The template to facilitate this requirement is available from the AFRL HRPO office.

Similarly, when other DoD Components support human research, the DoD organization is required to have an HRPP, consistent with that Component's policies. For example, letters of support from Commanders of the affected military facility (or units in which recruitment will occur or the study will be conducted) may fulfill this requirement. Some military sites may also require that study volunteers seek written permission from their supervisor prior to research participation. **Note:** Special considerations pertain to recruitment process for military personnel. The chain of command must not be involved in the recruitment of military personnel and cannot encourage or order Service members to participate in a research study.

d. **Additional Unique DoD Requirements**.

(1) For all non-exempt research, provide written documentation that the IRB considered the scientific merit of the protocol (this is often documented on the IRB approval letter, however, any IRB documentation is acceptable).

(2) For all exempt and non-exempt research, if the project involves artificial intelligence (AI) enabled tools or capabilities, there must be documentation showing that the DoD Ethical Principles for AI are provided for in the protocol.

(3) Non-exempt research protocols deemed greater than minimal risk that recruit DoD-affiliated personnel in a group setting must provide for an ombudsperson (without conflict of interest and not part of the study team) who must be present during recruitment. The ombudsperson will ensure consent is voluntary and be available to address DoD-affiliated personnel's concerns about participation.

(4) For research that involve large scale genomic data (LSGD) of DoD-affiliated personnel, a DoD LSGD security review must be accomplished prior conducting the research. The HRPO will assist with obtaining a DoD LSGD security review.

Section 3: HRPO Submission and Administrative Review Process

a. Component programs supporting non-DoD conducted research (the DoD Program Manager/Program Officer/ Technical Point of Contact or their designee) will assist the non-DoD performer in submitting proposals (those selected for funding or receiving DoD support) to the DAF HRPO to initiate the DoD required administrative review. The DAF HRPO "Extramural Initial Submission Checklist" can be found at the link in the footer. **Note:** The non-DoD investigator, with input from DAF programs supporting the activity, will supply required checklist data and documents noted on the Extramural Submissions Instructions to enable HRPO review to begin.

b. The PI must complete all the information requested on the Initial Submission Checklist. Any questions related to what information is required should be discussed with the DAF HRPO during completion either via email or phone prior to submission to HRPO.

c. Work described in the research protocol must relate to the DoD-supported activities identified in the Statement of Work section of the awarded proposal. Adding new DoD-supported activities to an existing active non-DoD protocol is generally not permitted. If such a design element is presented, pre-coordination with the HRPO, prior to submitting to the non-DoD IRB, will ensure DoD requirements are met.

d. Once the full submission is received by HRPO the review will commence to ensure compliance with Federal, DoD, State or host nation regulatory requirements. Once review of the submitted protocol has been conducted, any required follow-up to be compliant with requirements will be routed to the investigator for resolution.

e. To complete the review, the HRPO will issue a concurrence or non-concurrence letter. The process will repeat for substantive amendments and re-approval of protocols, as applicable.

Info Sheet References: 32 CFR 219, DoDI 3216.02, DAFI 40-402

252.235-7004 Protection of Human Subjects

As prescribed in 235.072(e), use the following clause:

PROTECTION OF HUMAN SUBJECTS (JUL 2009)

(a) *Definitions*. As used in this clause—

(1) “Assurance of compliance” means a written assurance that an institution will comply with requirements of 32 CFR Part 219, as well as the terms of the assurance, which the Human Research Protection Official determines to be appropriate for the research supported by the Department of Defense (DoD) component (32 CFR 219.103).

(2) “Human Research Protection Official (HRPO)” means the individual designated by the head of the applicable DoD component and identified in the component’s Human Research Protection Management Plan as the official who is responsible for the oversight and execution of the requirements of this clause, although some DoD components may use a different title for this position.

(3) “Human subject” means a living individual about whom an investigator (whether professional or student) conducting research obtains data through intervention or interaction with the individual, or identifiable private information (32 CFR 219.102(f)). For example, this could include the use of human organs, tissue, and body fluids from individually identifiable living human subjects as well as graphic, written, or recorded information derived from individually identifiable living human subjects.

(4) “Institution” means any public or private entity or agency (32 CFR 219.102(b)).

(5) “Institutional Review Board (IRB)” means a board established for the purposes expressed in 32 CFR Part 219 (32 CFR 219.102(g)).

(6) “IRB approval” means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and Federal requirements (32 CFR 219.102(h)).

(7) “Research” means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of 32 CFR Part 219, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities (32 CFR 219.102(d)).

(b) The Contractor shall oversee the execution of the research to ensure compliance with this clause. The Contractor shall comply fully with 32 CFR Part 219 and DoD Directive 3216.02, applicable DoD component policies, 10 U.S.C. 980, and, when applicable, Food and Drug Administration policies and regulations.

(c) The Contractor shall not commence performance of research involving human subjects that is covered under 32 CFR Part 219 or that meets exemption criteria under 32 CFR 219.101(b), or expend funding on such effort, until and unless the conditions of either the following paragraph (c)(1) or (c)(2) have been met:

(1) The Contractor furnishes to the HRPO, with a copy to the Contracting Officer, an assurance of compliance and IRB approval and receives notification from the Contracting Officer

that the HRPO has approved the assurance as appropriate for the research under the Statement of Work and also that the HRPO has reviewed the protocol and accepted the IRB approval for compliance with the DoD component policies. The Contractor may furnish evidence of an existing assurance of compliance for acceptance by the HRPO, if an appropriate assurance has been approved in connection with previous research. The Contractor shall notify the Contracting Officer immediately of any suspensions or terminations of the assurance.

(2) The Contractor furnishes to the HRPO, with a copy to the Contracting Officer, a determination that the human research proposed meets exemption criteria in 32 CFR 219.101(b) and receives written notification from the Contracting Officer that the exemption is determined acceptable. The determination shall include citation of the exemption category under 32 CFR 219.101(b) and a rationale statement. In the event of a disagreement regarding the Contractor's furnished exemption determination, the HRPO retains final judgment on what research activities or classes of research are covered or are exempt under the contract.

(d) DoD staff, consultants, and advisory groups may independently review and inspect the Contractor's research and research procedures involving human subjects and, based on such findings, DoD may prohibit research that presents unacceptable hazards or otherwise fails to comply with DoD procedures.

(e) Failure of the Contractor to comply with the requirements of this clause will result in the issuance of a stop-work order under Federal Acquisition Regulation clause 52.242-15 to immediately suspend, in whole or in part, work and further payment under this contract, or will result in other issuance of suspension of work and further payment for as long as determined necessary at the discretion of the Contracting Officer.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts that may include research involving human subjects in accordance with 32 CFR Part 219, DoD Directive 3216.02, and 10 U.S.C. 980, including research that meets exemption criteria under 32 CFR 219.101(b). This clause does not apply to subcontracts that involve only the use of cadaver materials.

DoD Ethical Principles for Artificial Intelligence

(https://www.ai.mil/docs/Ethical_Principles_for_Artificial_Intelligence.pdf)

These principles will apply to both combat and non-combat functions and assist the U.S. military in upholding legal, ethical and policy commitments in the field of AI. The department's AI ethical principles encompass five major areas:

1. Responsible. DoD personnel will exercise appropriate levels of judgment and care, while remaining responsible for the development, deployment, and use of AI capabilities.
2. Equitable. The Department will take deliberate steps to minimize unintended bias in AI capabilities.
3. Traceable. The Department's AI capabilities will be developed and deployed such that relevant personnel possess an appropriate understanding of the technology, development processes, and operational methods applicable to AI capabilities, including with transparent and auditable methodologies, data sources, and design procedure and documentation.
4. Reliable. The Department's AI capabilities will have explicit, well□defined uses, and the safety, security, and effectiveness of such capabilities will be subject to testing and assurance within those defined uses across their entire life-cycles.
5. Governable. The Department will design and engineer AI capabilities to fulfill their intended functions while possessing the ability to detect and avoid unintended consequences, and the ability to disengage or deactivate deployed systems that demonstrate unintended behavior.

References:

DOD Adopts Ethical Principles for Artificial Intelligence, U.S. Department of Defense, 24 February 2020, https://www.defense.gov/Newsroom/Releases/Release/Article/2091996/dod-adopts-ethical-principles-for-artificial-intelligence/

A Closer Look: The Department of Defense AI Ethical Principles, The Joint Artificial Intelligence Center, 24 February 2020, https://www.ai.mil/blog_02_24_20-dod-ai_principles.html