Naval Postgraduate School  
Office of the Dean of Research  

Sponsored Program Policy/Guidance Memo No. SPPGM-25  

Subj: WAIVERS TO THE (51%) IN-HOUSE SPENDING REQUIREMENT  

Date: 7 February 2019  

Ref: (a) ASN (FM&C) to NPS letter of 6 November 2015  
(b) ASN (FM&C) to NPS letter of 2 July 2018  
(c) ASN (FM&C) to NPS letter of 10 September 2018  

Encl: (1) Copies of References (a), (b), and (c)  
(2) Descriptions of category waivers 1 through 5  

Background: The statute language governing government-to-government transfer of funds under the Economy Act requires that substantial expenditures be executed by the receiving organization (e.g., NPS). Navy guidance governing reimbursable work orders (RWOs) further restricts those transfers by defining substantial as 51% or more and specific guidance to NPS in Ref (a) narrowed the interpretation of what constitutes in-house spending (Enclosure 1). In 2018 the President, NPS forwarded a series of waiver requests asking ASN/FM&C to waive the 51% or greater in-house spending requirement in the case of activity described within five categories of reimbursable expenditures. All five of these category waiver requests were approved in either Ref (b) or Ref (c) (Enclosure 1). The five waiver categories can be described as follows (Enclosure 2):  

1. Contracting for an academic post-doctoral research fellow through the National Research Council (NRC) post-doc program.  
2. Contracting for the fabrication of specialized equipment in support of current and future research projects directed by NPS personnel.  
3. Use of other U.S. government services, including subject matter experts, researchers, labs, test vehicles, and test ranges, that are in direct support of research directed by NPS personnel.  
4. Acquisition of instructor services to develop and deliver credit-granting educational programs in direct support of the education program requirements of NPS – specifically to expand educational programs to meet emerging Navy and DoD educational requirements.  
5. Increasing collaboration with Subject Matter Experts (SMEs) in other academic institutions and industrial partners in direct support of research directed by NPS personnel.  

Action: When it is determined that the project budget requires a waiver from the 51% or more in-house spending requirement, the Principal Investigator (PI) should annotate the abstract field on his or her proposal routing form (PRF) to indicate: 1) which of the five category waivers apply to the project and 2) (briefly) how the waiver applies to the project.
After a proposal has gone through the Work Acceptance Process (WAP), a PI may change the project budget. If the new budget requires a waiver to the 51% or more in-house spending requirement when the original proposal did not require a waiver, then the PI must submit a revised PRF and budget with the included identification of and justification for the category waiver.
From: Assistant Secretary of the Navy (Financial Management and Comptroller)
To: Commander, Bureau of Naval Personnel

Subj: FINANCIAL MANAGEMENT OF REIMBURSABLE ORDERS AT THE NAVAL POSTGRADUATE SCHOOL

Ref: (a) ASN(FM&C) 7000 Ser ASN(FM&C)/U170 dtd 17 Sep 10
(b) OASN (FM&C) memo dtd 3 May 2002
(c) OASN (FM&C) memo dtd Mar 8 2011

Encl: (1) Revised Financial Procedures for Reimbursable Orders at the Naval Postgraduate School
(2) Work Acceptance Process

1. As a result of a tasking from the August 2009 Department of the Navy Inspector General (DONIG) review of the Naval Postgraduate School (NPS), reference (a) was issued. Additionally, your staff asked for a permanent waiver for the three educational organizations to the 51% rule as directed in reference (b), or that the authority be delegated to the Bureau of Naval Personnel. Reference (c), denied the delegation but provided parameters to assist the three educational institutions in the execution of customer orders.

2. Since issuance of the aforementioned guidance, a subsequent DONIG review was conducted that identified a number of process issues at NPS. Additionally, audit readiness actions and now the Navy’s immersion in an audit has resulted in the need to review reimbursable procedures. Therefore, references (a) and (c) are rescinded and revised guidance is provided in enclosures (1) and (2). The guidance is effective as of 1 October 2015.

3. My point of contact is Ms. Gaye Evans, who can be reached at (703) 692-4822 or gaye.evans@navy.mil.

S. J. RABERN
MEMORANDUM FOR PRESIDENT, NAVAL POSTGRADUATE SCHOOL

SUBJECT: Request for Waiver from the 51-Percent Rule and FY19 Indirect Rate

Reference: (a) NPS memo 3050/Ser 00/358 dated 24 May 2018
(b) Department of the Navy Financial Management Policy Manual (FMPM) Paragraph 02406

By reference (a), you requested a waiver to the 51 percent rule, required by reference (b), in order to expand research efforts by leveraging the talent of post-doctoral graduates who are available by contract through the National Research Council. Your request for a waiver is approved. Management of this categorical waiver requires strong internal controls to ensure its proper application.

By separate conversation and email, you requested that I review the current model for determining indirect rates for reimbursable efforts, and approve the expansion of the Naval Postgraduate School’s indirect rates to cover total costs, rather than labor and travel only. I have reviewed the current Fiscal Year 2019 rate model and agree the rate should apply to total costs. I note that an option in your model is to include an additional three percent rate for funds associated with the authority available to Defense Laboratories in section 2363 of title 10, United States Code. My staff continues to research the applicability of this authority. Further guidance regarding this option will be forwarded separately.

This waiver and expansion approval will be effective for three years from the date of this document.

My point of contact for this matter is Ms. Barbara Carns, who can be reached at (703) 695-2669 or barbara.carns@navy.mil.

Thomas W. Harker
MEMORANDUM FOR PRESIDENT, NAVAL POSTGRADUATE SCHOOL

Subj: REQUEST FOR WAIVER FROM THE 51-PERCENT RULE

Ref: (a) NPS memo 3050/Ser 00/503 dated 25 Jul 2018
     (b) NPS memo 3050/Ser 00/522 dated 1 Aug 2018
     (c) NPS memo 3050/Ser 00/523 dated 1 Aug 2018
     (d) NPS memo 3050/Ser 00/524 dated 1 Aug 2018
     (e) Department of the Navy Financial Management Policy Manual (FMPM) Paragraph 02406

By references (a) through (d), you requested several categorical waivers to the 51 percent rule as required by reference (e).

Reference (a) is a requested waiver to the 51 percent rule for specialized equipment fabrication in support of current and future research projects. Your request for this 51% waiver is approved provided that it is applied solely for equipment fabrication that is required in direct support of research directed by NPS personnel.

By reference (b), you requested a waiver in order to expand research efforts by leveraging other U.S. government services, including subject matter experts, researchers, labs, test vehicles and test ranges. Your request for this 51% waiver is approved provided that it is applied to such services that are in direct support of research directed by NPS personnel.

By reference (c), you requested a waiver in order to acquire instructor services to develop and deliver credit-granting educational programs that would allow NPS to expand educational programs to meet emerging Navy and Department of Defense educational requirements. Your request for this 51% waiver is approved provided that it is applied to services in direct support of the education program requirements of NPS.

Reference (d) is a requested waiver in order to expand and improve research efforts by increasing collaboration with subject matter experts in other academic institutions and industrial entities. Your request for this 51% waiver is approved provided that it is applied to collaboration with academic and industry partners in direct support of research directed by NPS personnel.
Subj: REQUEST FOR WAIVER FROM THE 51-PERCENT RULE

These waivers apply only to orders issued pursuant to the Economy Act statute (31 U.S.C. § 1535) and are effective for three years from the date of this document. The management of these categorical waivers require strong internal controls to ensure their proper application.

My point of contact for this matter is Ms. Barbara Carns, who can be reached at (703) 695-2669 or barbara.carns@navy.mil.

Thomas W. Harker

Attachments:
As stated
DEPARTMENT OF THE NAVY
NAVAL POSTGRADUATE SCHOOL
1 UNIVERITY CIR
MONTEREY, CA 93943-5000

IN REPLY REFER TO:
3050
Ser 09/358
24 May 18

From: President, Naval Postgraduate School
To: Assistant Secretary of the Navy (Financial Management and Comptroller)
Via: Comptroller, Bureau of Naval Personnel

Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO POST-DOCTORAL RESEARCH

Ref: (a) NPS Sailing Directions Memo 3050 Ser 00/260 of 27 Apr 18
(b) ASN (FM&C) to NPS ltr of 6 Nov 2015

1. I appreciate the recent opportunity to discuss the future of Naval Postgraduate School (NPS) and the business related constraints described in reference (a). In order to enable NPS to meet the Secretary of the Navy’s vision, you expressed a willingness to support tailored, categorical requests for waivers to the 51% rule, which is specifically defined for NPS in reference (b). I request such a waiver to accept funding to support research projects involving post-doctoral researchers (i.e., “post-doc’s”) when the cost of the post-doc candidate causes the project to violate the 51% in house rule.

2. A 51% rule waiver for post-doc contracts would serve as a force multiplier for NPS innovation and research output: it would enable simultaneous execution of all sponsored projects, infuse the research with the fresh perspective and technical expertise of newly minted doctoral graduates, and build a pipeline for future Navy researchers by getting post-doc’s immersed with military projects at a time when they’re developing their research niche. In practical terms, a 51% rule waiver for post-doc contracting would enable NPS to expand research efforts by increasing the number of research projects faculty can execute at any given time. To illustrate this impact, a NPS Principal Investigator (i.e., a “PI” or a faculty member leading a research project) could have multiple potential research projects with distinct sponsors desiring to fund such research, but the PI does not have the capacity to execute all projects simultaneously. With a post-doc waiver in place, the PI could devote time to coordinate all projects but contract the majority of each project’s research to a post-doc. Under the current 51% rule restrictions in place, this arrangement is untenable as it would typically require that more than 51% of each sponsor’s funding be spent acquiring post-doc services by contract. Notably, such a waiver would allow NPS to better leverage the prestigious National Research Council’s (NRC) pool of post-doc’s for research support. The NRC is well known for having the best and brightest in young talent, and it could be further leveraged to support long careers in Navy research. Since issuance of reference (b), NPS has experienced a 40% decrease in the number of NRC post-doc candidates we’ve been able to bring onboard, negatively impacting our research program.

3. The Navy’s Financial Management Policy Manual at Paragraph 02406 establishes the 51% rule for work governed by the Economy Act. Per reference (b), NPS is further restricted in that the 51% rule applies to all reimbursable work - even when there is special statutory authority for the agreement. NPS requests that the waiver note that section A.8 of reference (b) is also waived for post-doc contracting.

4. Your consideration of this request is greatly appreciated. The NPS point of contact for this request is Mr. Les Martin, NPS Director of Business Operations. He may be reached at COMM: (831) 656-1027, or by e-mail at ldmartin2@nps.edu.

RONALD A. ROUTE
Vice Admiral, U.S. Navy (Ret.)
From: President, Naval Postgraduate School
To: Assistant Secretary of the Navy (Financial Management and Comptroller)
Via: Comptroller, Bureau of Naval Personnel

Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO EQUIPMENT FABRICATION FOR RESEARCH PROJECTS

Ref: (a) NPS Sailing Directions Memo 3050 Ser 00/260 of 27 Apr 18
(b) ASN (FM&C) to NPS ltr of 6 Nov 2015

Encl: (1) NPS Equipment Fabrication 51% Waiver Internal Controls
(2) NPS Research Project Funds Flow Chart

1. I appreciate the recent opportunity to discuss the future of Naval Postgraduate School (NPS) and the business related constraints described in reference (a). I also appreciate the recent consideration and approval of NPS’ request for a waiver regarding our post-doctoral research program. In order to enable NPS to meet the Secretary of the Navy’s vision, you expressed a continued willingness to support tailored, categorical requests for waivers to the 51% rule, which is specifically defined for NPS in reference (b). I request such a waiver to accept funding to support research projects that require specialized equipment fabrication when the cost of the equipment fabrication causes the project to violate the 51% in house rule.

2. A waiver for specialized equipment fabrication would allow NPS to expand and improve our research efforts by increasing the complexity, accuracy, and relevancy of the equipment used in current and future research projects. It would also enable NPS to perform sponsored research that requires the fabrication of high-value equipment. NPS lacks the full in-house capability to design, develop, fabricate and manufacture all of the equipment necessary to conduct the full range of complex sponsored research. Thus, when a project requires a piece of equipment that cannot be purchased, the Principal Investigator (i.e., a “PI” or faculty member leading a research project) must contract for the fabrication or machining of the specialized equipment. While NPS receives the equipment as a product deliverable at the end of the contract, the fabricator is performing a service on behalf of NPS, and contracting for services is considered an out-of-house expense. Since the issuance of reference (b), NPS has lost more than half of its sponsored research portfolio, negatively impacting innovation for both the Navy and Department of Defense. With this waiver in place, PIs could fully leverage specialized equipment for sponsored research, and they will no longer need to decline projects that require high-value equipment fabrication.

3. The Navy’s Financial Management Policy Manual at Paragraph 02406 establishes the 51% rule for work governed by the Economy Act. Per reference (b), NPS is further restricted in that the 51% rule applies to all reimbursable work - even when there is special statutory authority for the agreement. NPS requests that the waiver note that section A.8 of reference (b) is also waived for post-doc contracting.

4. Your consideration of this request is greatly appreciated. The NPS point of contact for this request is Mr. Les Martin, NPS Director of Business Operations. He may be reached at COMM: (831) 656-1027, or by e-mail at ldmartin2@nps.edu.

RONALD A. ROUTE
Vice Admiral, U.S. Navy (Ret.)
From: President, Naval Postgraduate School  
To: Assistant Secretary of the Navy (Financial Management and Comptroller)  
Via: Comptroller, Bureau of Naval Personnel  

Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO CERTAIN INTERNAL GOVERNMENT SUPPORT FOR RESEARCH PROJECTS  

Ref: (a) NPS Sailing Directions Memo 3050 Ser 00/260 of 27 Apr 18  
(b) ASN (FM&C) to NPS Itr of 6 Nov 2015  

Encl: (1) NPS Internal Government Support 51% Waiver Internal Controls  
(2) NPS Research Project Funds Flow Chart  

1. I appreciate the recent opportunity to discuss the future of Naval Postgraduate School (NPS) and the business related constraints described in reference (a). I also appreciate the recent consideration and approval of NPS’ request for a waiver regarding our post-doctoral research program. In order to enable NPS to meet the Secretary of the Navy’s vision, you expressed a continued willingness to support tailored, categorical requests for waivers to the 51% rule, which is specifically defined for NPS in reference (b). I request such a waiver to accept funding to support research projects that require the use and support of labs, test vehicles, testing facilities and government services (i.e., subject matter experts and researchers) when the cost of the internal government support causes the project to violate the 51% in house rule.  

2. A waiver for internal government support would allow NPS to expand and improve our research efforts by leveraging other U.S. government services, to include subject matter experts and researchers, labs, test vehicles, and test ranges, as well as their corresponding support infrastructure. The Department of the Navy, Department of Defense, and intragovernmental sponsors desire to fund complex research projects, primarily via the Economy Act, but in some cases the NPS Principal Investigator (i.e., a “PI” or faculty member leading a research project) does not have the in-house capability to perform the tests in order to produce and collect the data necessary to conduct the sponsored research. This requires the PI to outsource testing and data collection services to other government entities such as the Naval Air Warfare Center, the Space and Naval Warfare Systems Command or the National Aeronautics and Space Administration. Even with a large capital investment, NPS would lack the full in-house capability and infrastructure to perform all test events necessary to conduct the full range of complex sponsored research. Government labs and test ranges provide data and analysis back to the NPS PI who then uses that information to create reports and other deliverables for the sponsor. Under the current 51% rule, this arrangement can be untenable for projects that have no travel/equipment costs or where the testing is particularly expensive as it would typically require that more than 51% of each sponsor’s funding be spent out-sourcing government services, lab assets, test vehicles, and test range infrastructure. Since the issuance of reference (b), NPS has
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lost more than half of its sponsored research, negatively impacting innovation for both the Navy and Department of Defense. With this waiver in place, NPS could revive some of that lost portfolio because PIs will no longer need to decline projects that require extensive or high-value use of U.S. government labs and testing facilities.

3. The Navy’s Financial Management Policy Manual at Paragraph 02406 establishes the 51% rule for work governed by the Economy Act. Per reference (b), NPS is further restricted in that the 51% rule applies to all reimbursable work—even when there is special statutory authority for the agreement. NPS requests that the waiver note in section A.8 of reference (b) is also waived for internal government support.

4. Your consideration of this request is greatly appreciated. The NPS point of contact for this request is Mr. Les Martin, NPS Director of Business Operations. He can be contacted at COMM: (831) 656-1027, or by e-mail at ldmartin2@nps.edu.

[Signature]
RONALD A. ROUTE
Vice Admiral, U.S. Navy (Ret.)
From: President, Naval Postgraduate School  
To: Assistant Secretary of the Navy (Financial Management and Comptroller)  
Via: Comptroller, Bureau of Naval Personnel  

Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO CURRICULUM DEVELOPMENT AND DELIVERY OF CREDIT-GRANTING PROGRAMS  

Ref: (a) NPS Sailing Directions Memo 3050 Ser 00/260 of 27 Apr 18  
(b) ASN (FM&C) to NPS Ltr of 6 Nov 2015  

Encl: (1) NPS Curriculum Development and Delivery of Credit Granting Programs 51% Waiver Internal Controls  
(2) NPS Research Project Funds Flow Chart  

1. I appreciate the recent opportunity to discuss the future of Naval Postgraduate School (NPS) and the business related constraints described in reference (a). I also appreciate the recent consideration and approval of NPS’ request for a waiver regarding our post-doctoral research program. In order to enable NPS to meet the Secretary of the Navy’s vision, you expressed a continued willingness to support tailored, categorical requests for waivers to the 51% rule, which is specifically defined for NPS in reference (b). I request such a waiver to accept funding to support the education mission by leveraging contracts or funds transfers to other agencies for instructor services to develop and deliver credit-granting educational programs when the cost of the support causes the project to violate the 51% in house rule.  

2. Developing and delivering for-credit education programs is part of NPS’ core mission. Contracting or leveraging other agency expertise for instructor services to develop and deliver these core education programs should appropriately be considered an “in-house” cost. A 51% rule waiver to acquire instructor services to develop and deliver credit-granting educational programs would allow NPS to expand our educational programs quickly to meet emerging or surge Navy and Department of Defense educational requirements. Sponsors often desire to fund credit-granting educational programs in a variety of current and emerging fields of study, primarily via the Economy Act, but NPS does not have the faculty capacity in all cases to effectively and efficiently meet the emerging needs of sponsoring agencies. This requires NPS to contract industry or leverage other agency experts for instructor services (i.e., curriculum development and course delivery) in our credit-granting educational programs. The 51% rule hinders the ability of NPS to react to emerging fields of study to effectively educate our sailors, marines, soldiers, airmen, and civilians. Under the current restriction, contracting for or leveraging other agency experts for instructor services is problematic as it could potentially require that more than 51% of each sponsor’s funding be executed outside of NPS. Waiver relief from the 51% restriction when acquiring instructor services would serve as a force multiplier for
Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO CURRICULUM DEVELOPMENT AND DELIVERY OF CREDIT-GRANTING PROGRAMS

NPS’ educational mission. It would allow NPS to be even more innovative and agile in creating new educational programs, particularly in emerging fields of study in which we have not yet had sufficient time to build our own internal capacity. In addition, it will enable us to engage with a wider range of outside experts who work in the private sector.

3. The Navy’s Financial Management Policy Manual at Paragraph 02406 establishes the 51% rule for work governed by the Economy Act. Per reference (b), NPS is further restricted in that the 51% rule applies to all reimbursable work—even when there is special statutory authority for the agreement. NPS requests that the waiver note in section A.8 of reference (b) is also waived for curriculum development and delivery of credit granting programs.

4. NPS recognizes that this waiver category is broad. In recognition of this fact, NPS is recommending tighter internal controls per enclosure (1) to provide oversight and measure appropriateness of education programs that fall under this waiver request.

5. Your consideration of this request is greatly appreciated. The NPS point of contact for this request is Mr. Les Martin, NPS Director of Business Operations. He can be contacted at COMM: (831) 656-102, or by e-mail at ldmartin2@nps.edu.

RONALD A. ROUTE
Vice Admiral, U.S. Navy (Ret.)
From: President, Naval Postgraduate School
To: Assistant Secretary of the Navy (Financial Management and Comptroller)
Via: Comptroller, Bureau of Naval Personnel

Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO ACADEMIC AND INDUSTRY PARTNERSHIPS FOR RESEARCH PROJECTS

Ref: (a) NPS Sailing Directions Memo 3050 Ser 00/260 of 27 Apr 18
     (b) ASN (FM&C) to NPS Ltr of 6 Nov 2015

Encl: (1) NPS Academic and Industry Partnerships 51% Waiver Internal Controls
      (2) NPS Research Project Funds Flow Chart

1. I appreciate the recent opportunity to discuss the future of Naval Postgraduate School (NPS) and the business related constraints described in reference (a). I also appreciate the recent consideration and approval of NPS’ request for a waiver regarding our post-doctoral research program. In order to enable NPS to meet the Secretary of the Navy’s vision, you expressed a continued willingness to support tailored, categorical requests for waivers to the 51% rule, which is specifically defined for NPS in reference (b). I request such a waiver to accept funding to support research projects that require academic and industry partnerships when the cost of the academic and industry partnership causes the project to violate the 51% in-house rule.

2. A waiver for academic and industry partnerships would allow NPS to expand and improve our research efforts by increasing our collaboration with academic and industry partners. Navy, Department of Defense (DoD) and intragovernmental sponsors often desire to fund complex research projects, primarily via the Economy Act, but in some cases the NPS Principal Investigator (i.e., a “PI” or faculty member leading a research project) does not possess all of the required Subject Matter Experts (SME) in-house. This requires the PI to outsource elements of the project for collaboration with SMEs from other academic institutions and innovative industrial entities. The 51% rule hinders the ability of NPS to act as the lead research organization for projects requiring significant collaboration and where there are Navy advantages to NPS performing as the lead organization, such as leveraging cutting-edge technologies, accessing world-renowned subject matter experts and researchers, and greater access to state-of-the-art labs and materials. Since the issuance of reference (b), the use of grants and contracts for research services has been limited, even where the deliverables from those NPS-issued grants and contracts never go directly to sponsors; instead, NPS uses them to inform its own reports/other research deliverables for sponsors. To clarify, a 51% waiver for these grants and contracts would allow NPS PIs to lead complex research projects with external partners while actively participating in the research. While the PI would provide leadership, they would not act solely as a program or project manager. Under the current 51% rule, this arrangement is untenable for projects that require significant collaboration as it would typically require that more than 51% of each sponsor’s funding be spent out-sourcing to other academic institutions and innovative industrial entities. Since the issuance of reference (b), NPS has lost more than half of its sponsored research, negatively impacting innovation for both the Navy and DoD. With this waiver in place, NPS could revive a sizable portion of its research portfolio.

3. The Navy’s Financial Management Policy Manual (FMPM) at Para 02406 establishes the 51% rule for work governed by the Economy Act. Per reference (b), NPS is further restricted in that the 51% rule applies to all reimbursable work—even when there is special statutory authority for the agreement. NPS
Subj: CATEGORICAL WAIVER REQUEST FOR 51 PERCENT RULE WITH RESPECT TO ACADEMIC AND INDUSTRY PARTNERSHIPS FOR RESEARCH PROJECTS

requests that the waiver note in section A.8 of reference (b) is also waived for academic and industry partnerships.

4. NPS recognizes that this category is broad. In recognition of this fact, NPS will implement tighter internal controls to measure appropriateness of research projects that fall under this waiver request.

5. Your consideration of this request is greatly appreciated. The NPS point of contact for this request is Mr. Les Martin, NPS Director of Business Operations. He may be reached at COMM: (831) 656-1027, or by e-mail at ldmartin2@nps.edu.

RONALD A. ROUTE
Vice Admiral, U.S. Navy (Ret.)