

Texas State University

A Guide to Principles and Policies for Industry Activities

Introduction

The Office of Innovation, Commercialization, and Engagement (OIC&E) within the Division of Research (DoR) has prepared this Guide as a summary of selected fundamental principles and policies that govern the manner in which industry activities are conducted at Texas State University. This document is meant to inform both the University community and potential Industry Sponsors, in order to facilitate and expedite the negotiation of agreements between the University and Sponsors.

Legal Identity

All sponsored research, instruction and service agreements and related contractual agreements, including visiting scientist agreements, nondisclosure/confidentiality agreements, teaming agreements, material transfer agreements, licensing agreements, etc. must be executed by an authorized official of the University. Individuals, departments, centers, research units, service operations, and academic divisions may not directly enter into agreements or otherwise legally bind the University.

Publication Policy

On behalf of its faculty, staff and students, the University retains the right to publish and disseminate all work done under sponsored agreements and cannot accept or undertake any sponsored project that provides for sponsor approval or undue control over the timing or content of University publications, or which prohibits the publication of the results of the project, except under limited and specialized circumstances. The University also recognizes the interest of sponsors in pre-reviewing potential publications, and the University routinely allows 30 days for such review and comment.

Patents and Other Intellectual Property

Title to inventions and discoveries, including copyrightable software, made or conceived by the University under a sponsored agreement, is retained by the University. The University will grant to the sponsor a time-limited option to negotiate a royalty-bearing license, whose terms will include the requirement that the sponsor shall bear the expense of securing and maintaining patent protection for any licensed invention or discovery, and retain for the University the right to use the intellectual property for its own internal educational and research purposes. Two limitations to this policy commonly are: 1) federally funded research which would be governed by appropriate federal regulations regarding data rights and patent rights and 2) research sponsored by nonprofit organizations, other universities, or governmental agencies in which case the University normally grants the sponsor a nonexclusive royalty free license to use such inventions and discoveries for the sponsor's internal noncommercial purposes only. The University performs its sponsored activities on a "best efforts basis" with no stated warranties or guarantees. The University will not accept contract provisions that require a warranty or guarantee of the results, provide for penalties due to failure to make progress by firm deadlines, or provide for withholding of payment if the sponsor is not satisfied with the results.

Use of the University's Name

It is a long-standing University policy that under no circumstances shall a sponsor be permitted to use its name in any publication or other published announcement to state or imply that the University approves or endorses any product or service of the sponsor. The University also requires that its name not be used in connection with any advertisement, press release, or other form of business promotion or publicity, or refer to a research agreement, without the University's prior written approval.

Insurance and Indemnification

The University is unable under Texas law to obtain Employer's Liability, Comprehensive General or Public Liability, and Comprehensive Automobile Insurance. The Texas Tort Claims Act provides for remedies against the State for legal proceedings for claimants in these areas. The University, to the extent permitted by the Constitution and the laws of the State of Texas and without waiving sovereign immunity, will agree to be responsible for the University's own negligent acts or omissions in the performance of the sponsored project. The sponsor will be expected to indemnify the University from any liability arising out of the activities carried out pursuant to the obligations of the sponsored project and for the sponsor's use of the results obtained from the activities performed by the University under the sponsored project.

Termination

In the event that a funding agreement is terminated for any reason, the sponsor will be expected to reimburse the University for all costs incurred to the date of termination and for all noncancellable obligations.

Governing Law

As an agency and institution of the State of Texas, the University cannot accept a provision that provides that the agreement is governed by the laws of another state or foreign government.

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