

502-004-A: Award Acceptance/Negotiation Procedure

This procedure implements CSU systemwide policies for Sponsored Programs Administration: [Award Acceptance and Negotiation](#) (ICSUAM #11002.04 and portions of [Sponsored Programs General Policy Standards and Requirements](#) (ICSUAM #11002.01).

Summary

The Sponsored Programs Office (SPO) is responsible for review, negotiation and acceptance of sponsored program agreements on behalf of the University Corporation at Monterey Bay (Corporation), and may utilize subject matter experts as needed to ensure that the review and negotiation of agreements comply with CSU/Campus policies and procedures, regulations and applicable laws, using standard templates/agreements when appropriate and possible.

100 Delegation of Authority. In accordance with Corporation policies and/or procedures, only those individuals so designated are authorized to accept sponsored awards. Principal Investigators/Project Directors and others, as necessary, shall be consulted and kept apprised throughout the review, negotiation and acceptance process.

200 Award Acceptance. Prior to acceptance of the Award or beginning a segment of an award that requires a specific compliance requirement, SPO will:

- A. negotiate and accept terms & conditions of the award;
- B. ensure that compliance requirements have been met (see Section 200 of 502-003-A);
- C. confirm that there are no substantial changes in the budget or scope of work in accordance with Section 500 from 502-003-A, Pre-Award Proposal Review/Approval Procedure.
 - o Note: If there are substantial changes from the original proposal requiring approval in accordance with 502-003-A, Section 500, the review/approval will occur prior to transition to post-award from SPO to the Corporation.

201 Authorization to Spend. Disbursements shall not be processed on any sponsored project until receipt of a fully executed award document or necessary approvals have been obtained. In cases when the Sponsor allows the Corporation to incur costs prior to receipt of the award or the project start date, disbursements for allowable expenditures may be made prior to receipt or execution of the award document with approval of SPO and Corporation Grant Accounting Manager or Controller. This approval is with the understanding that any costs not recovered by the Sponsor are the responsibility of the PI/PD and PI/PD's College/Division.

300 State Agreements. The AB20 model agreement (CMA: California Model Agreement) in compliance with Education Code Section 67325 et seq and systemwide guidance for agreements from California's State agencies shall be used unless otherwise specified by the Chancellor's Office (CO) Sponsored Programs Office, in compliance with ICSUAM SP Policy #11002.01, Section 305.

301 Use of the Model Agreement: The California Model Agreement (CMA) is intended to be used for all research, training, and public service awards to a CSU Campus issued after January 1, 2016. Exceptions are rare and will be pre-approved by CSU, University of California (UC) and Department of General Services (DGS). Refer to Guidelines for additional information.

302 CO Prior Approval Required: The following triggers a CO prior approval requirement on agreements from the State of California.

- A. **Indirect cost rate on State agreements:** Accepting an indirect cost rate lower than 25% requires prior review/approval from the Chancellor's Office. While the guidelines issued on indirect cost for state-funded

agreements is not a part of the CMA, we continue to hold this line with the UC to ensure consistency on how we interact with State agencies under the CMA.

B. **Patent Rights provision inclusion:** Accepting the pre-negotiated "*Patent Rights - State*" provision (from the CMA MOU) on Exhibit G requires prior review/approval from the Chancellor's Office.

303 CMA Additional Guidance: As new guidance on the CMA is provided by the CSUCO, CSUMB SPO will work with the CSUCO SPO, as necessary, to implement new guidance to preserve the integrity of the CMA.

501 Assignment. If the agreement from the sponsoring agency contains language regarding ownership of intellectual property (IP) that is either copyrightable or patentable, the PI and other faculty contributors are required to sign a document to assign title to any sponsored works to the University Corporation, only to the extent required to comply with the terms and conditions of the sponsored agreement. The assignment form must be executed prior to accepting the award, if necessary, in compliance with Management of Sponsored Programs Policy 502-000-A, Sections 501-503 and CSU system SP policy 11002.01 and US Patent Law (see Bayh-Dole Act requirements under guidelines).

502 Tax-Exempt Bond-Funded Facility (TEBFF) Use Requirements. Since most of the facilities at CSUMB are TEBFF, SPO will be required to notify CSUMB Facilities Management when there is potential Private Business Use (PBU) in a campus facility. The Facilities Management department will be responsible for making any final determination on PBU and for any communication with the CSU Chancellor's Office (CSUCO). SPO will review sponsored agreements using the TEBFF decision tree to determine if there is PBU. If so, the following will be provided to Facilities Management so that they can do further analysis on the use of the facility/project:

- 1) Copy of the Grant/Agreement;
- 2) Facility/Room Number where sponsored work will be done;
- 3) PI Name;
- 4) Project Purpose; and
- 5) Sponsor Name

Roles & Responsibilities

PI: Collaborate with SPO on review of award document(s), when applicable.

- A. Ensure that compliance requirements are met in accordance with University/Corporation policies & procedures
- B. Facilitate discussions with funding agency, when necessary, to resolve any outstanding issues prior to accepting the agreement
- C. Participate in the pre-award to post-award administration transition process to include attending a New-Award Orientation.
- D. Execute "assignment form" to assign rights and title to the University Corporation of IP created under the sponsored agreement, to the extent required for University Corporation to comply with the terms and conditions of the sponsored agreement. Facilitate execution of the "assignment form" by other contributors, as necessary.

Dean (and/or other administrator): Review/approve any substantial changes from proposed to awarded project via campus routing process.

Corporation, Post-Award Admin: Participate in transition from pre-award to post-award administration including participation in the New-Award Orientation.

SPO: Review all award documents in collaboration with PI, when necessary.

- A. Negotiate/accept agreement terms and conditions;
- B. Confirm compliance with regulations at the pre-award stage;
- C. Reroute for approval if award includes substantial changes from proposed project;
- D. Accept agreement on behalf of the Corporation;
- E. Coordinate transition from pre-award to post-award administration of project including New-Award Orientation

University Development:

- A. Notify SPO when award is received;
- B. University Development may negotiate terms and conditions with private grants in coordination with SPO;
- C. Participate at the New Award Orientation.

References

For definitions of key words in this procedure, refer to the CSU systemwide [Sponsored Programs Definitions Policy](#) (ICSUAM #11001.01).

CMA Links

- CSYou SharePoint site for Exhibit G on the CMA Collab page (access limited to RAC/CCRO)
<https://csyou.calstate.edu/groups/rsp/AB20collab/SitePages/Home.aspx>
- [DGS University Model Contract Language](#) page

CSYou SPA SharePoint sites for CO prior approvals on State Agreements (CSU-wide access)

- Main SPA Page: <https://csyou.calstate.edu/Divisions-Orgs/bus-fin/Financial-Services/spa/Pages/default.aspx>
- CMA Exception Process: [https://csyou.calstate.edu/Divisions-Orgs/bus-fin/Financial-Services/spa/Pages/CMA-Calif-Model-Agreement-\(AB20\).aspx](https://csyou.calstate.edu/Divisions-Orgs/bus-fin/Financial-Services/spa/Pages/CMA-Calif-Model-Agreement-(AB20).aspx)
- Indirect Cost Prior Approval Process: <https://csyou.calstate.edu/Divisions-Orgs/bus-fin/Financial-Services/spa/Pages/CSU-Indirect-Cost.aspx>

Guidelines

201 – Spending Authorization and/or Pre-Award Spending:

Generally, work should not be performed on a project until a letter of commitment or fully executed award is received from the funding agency. Without a letter of intent of fully executed award, reimbursement for costs incurred may not be recovered from the funding agency.

If pre-award (or pre-agreement) costs are allowed and necessary, the Project Director/Principal Investigator's ("PD/PI") College/Administrative Unit will be responsible for any incurred costs and will:

- Seek approval for pre-award spending,
- Contact SPO if work needs to begin before a letter of intent or fully executed award is received,
- Contact SPO to set up a project, if approved for pre-award spending, rather than charge costs to an inappropriate project, and
- SPO will do its best to expedite the funding and set-up process, including contacting the funding agency.

301 Use of the Model Agreement additional guidelines:

Known exceptions include awards from the California Institute of Regenerative Medicine (CIRM), the California Energy Commission's EPIC program, the California Marketing/Commodity Boards and the CSUS student assistant and conference planning contracts. Additional exceptions will be published on the CSU website.

An award of additional funds to an existing award (with a presumed expansion of the scope of work) should be considered new funds under the CMA implementing Memorandum of Understanding (MOU) and may be subject to a higher indirect cost rate in accordance with the CSU and UC guidance on indirect cost on state-funded agreements.

303 CMA Additional Guidance:

CMA Exhibit G: If any alternate terms are negotiated in Exhibit G or if the University Patent Rights provision is incorporated, SPO will upload Exhibit G from the agreement to the CSU SharePoint site. Upload Exhibit G from the agreement to the CSU Sharepoint site (in the "Exhibit G" library) with the Agreement number and Agency name (at a minimum). Alternatively, the Exhibit G document may be emailed to ExhibitG@share.calstate.edu.

501 – Bayh-Dole Act Compliance (US Patent Law, 37 CFR 401)

Obligations of Universities and Other Nonprofit Organizations: By accepting federal funds in support of a research project, institutions assume responsibility for complying with the requirements of the Bayh-Dole Act and US Patent Law for federally funded inventions ([35 USC §200-212](#)). In general, the nonprofit organizations are required to:

1. Obtain written agreements from all employees (except clerical and non-technical personnel) recognizing their obligations to report inventions developed under federally-funded programs to the appropriate university office and assign them to the institution;
2. Disclose an invention to the federal agency supporting the applicable research program within 2 months after the inventor discloses an invention in writing to the institution;
3. Elect title to the invention within two years after disclosing the invention to the federal agency but no later than 60 days before the end of any statutory period in which valid patent protection can be obtained in the U.S.;
4. File a patent application within one year after election of title - or earlier if necessary to avoid forfeiture of patent rights - but no later than the end of any statutory period in which valid patent protection can be obtained in the U.S.;
5. Include at the beginning of the U.S. patent application and patent a statement that the U.S. Government has rights in the invention and identifying the sponsoring agency and the number of the funding award;
6. Submit to the funding agency a confirmatory license for each U.S. patent application providing the sponsoring agency with a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world;
7. Notify the funding agency within a reasonable amount of time after filing the initial patent application whether and in which countries corresponding foreign applications will be filed;
8. Submit periodic reports, no more frequently than once a year, regarding the utilization of the invention as requested by the funding agency;
9. Give preference to issuing licenses to small business firms if they show they have the resources and capability to bring the invention to practical application;
10. Except with permission of the funding agency, not assign rights to inventions to third parties (except to patent management firms), including to the inventor;
11. Require any exclusive licensee to substantially manufacture in the U.S. any products that will be sold in the U.S., unless this requirement is waived by the funding agency;
12. Share with the inventor(s) of the invention a portion of any income the institution receives from the licensing of the invention;
13. Use the balance of income received from the licensing of the invention (after costs associated with patenting and licensing are reimbursed) to support education and scientific research.

While all sections of the Bayh-Dole Act are pertinent, [Section 37 CFR 401.14\(f\)](#) *Standard Patent Rights Clauses* is particularly important in that it covers some of the more significant requirements of the Act.

502 – SPO will use the [TEBFF Decision Tree](#) to determine PBU as necessary.
Link to IRS [Revenue Procedure 2007-47](#) – for research exemption