

OGRD Memorandum 23 Processing Material Transfer Agreements for Incoming Materials

WASHINGTON STATE UNIVERSITY

The Office of Research Office of Grant and Research Development
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SUBJECT: Material Transfer Agreement Routing and Approval Guidelines for Incoming Material(s) to WSU.

Material Transfer Agreements (MTA's) are mechanisms to promote further research, enhance discovery, support a robust research enterprise, and improve public health. Frequently material that we request from other investigators, particularly those in corporate labs, may be accompanied by an MTA which must signed before the material provider will send the material. To ensure researcher/inventor rights, WSU's rights, material provider's rights, and the rights of any agencies sponsoring research in PI labs, such agreements should be reviewed and approved by the Office of Grant and Research Development prior to signing, even if they do not require the signature of an authorized institutional representative.

In December of 1999, the National Institutes of Health presented a policy on sharing biomedical research resources entitled "Principles and Guidelines for Recipients of NIH Research Grants and Contracts on Obtaining and Disseminating Biomedical Research Resources". It is important that WSU comply with the principles outlines in this policy, which are to:

1. Ensure Academic Freedom and Publication
2. Ensure Appropriate Implementation of the Bayh-Dole Act
3. Minimize Administrative Impediments to Academic Research
4. Ensure Dissemination of Research Resources Developed with NIH funds

These guidelines apply to all WSU investigators, even those whose research is not currently sponsored by an NIH grant or contract. These guidelines are necessitated by the fact that even though the material may have been obtained at a time when NIH funding was not present for the project for which the material was intended, there is a strong possibility that, once a material is in a laboratory, it might be used in a future NIH funded project.

We would recommend that all WSU investigators become familiar with the terms of these guidelines and carefully compare the terms and conditions of future MTA's they receive with the terms of these guidelines. IN EVERY CASE, IF THE MATERIAL YOU NEED CAN BE PURCHASED FROM A COMMERCIAL SOURCE, IT SHOULD BE PURCHASED, RATHER THAN OBTAINED VIA AN MTA.

When WSU investigators receive an MTA from industry or other academic institutions which contain terms and conditions incompatible with this policy or the University's policy, OGRD will make a reasonable effort to negotiate compatible terms with the Material Provider. If it is not possible to negotiate compatible terms, alternative sources for the material must be sought.

Important Areas of Concern Are:

a) freedom to publish; b) confidentiality terms; c) intellectual property rights to new inventions/discoveries which involve the Material; d) data rights and ownership; e) governing law; and f) indemnification

In most instances, MTA's require some negotiation of these issues to obtain terms that appropriately protect the rights of the institution and the investigator. WSU, as a public institution and state agency, is frequently restricted by law in what it can and cannot agree to.

If the material provider is from an institution that participates in the Uniform Biological Material Transfer Agreement (UBMTA), as does WSU, the approval process can be handled very quickly via a simple letter agreement.

Please contact OGRD if you have questions regarding incoming Material Transfer Agreements.

Process and Approval:

Upon receipt of a MTA for incoming materials, the WSU employee to receive the material should access and complete the WSU Material Transfer Agreement Information Sheet. This form is available on-line at: <http://www.ogrd.wsu.edu/DOCS/MTA.pdf>. The purpose of the MTA Information Sheet is to *aid and expedite* the negotiation of MTA's and to *ensure compliance* with the NIH published principles for "Sharing Biomedical Research Resources". The MTA Information Sheet should then be printed, signed and routed, with the MTA, to the Department Chair for review and then routed to OGRD for final review, negotiation and signature. Note: If an electronic version of the MTA was received please also forward the electronic document to ogrd@wsu.edu with the subject line indicating MTA for review and note in the body of the email when the hard-copy forms were forwarded to OGRD.

MTA Processing for Materials Leaving WSU:

MTA's for material(s) leaving the University are normally processed through the Office of Intellectual Property Administration and/or the Washington State University Research Foundation. Please contact them at 335-5526.