

Research Agreements Policy

Subject	Research Agreements
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100.00 Introduction and Purpose

Agreements governed by this policy detail the conditions under which the University is to provide or receive use of facilities, services, goods, or other resources to a third party (e.g., commercial, governmental, and other research and educational institutions). An approved

and executed agreement is required before any services identified in this policy may be performed.

This policy applies to agreements under the standing authority and delegation of the Vice President for Research and Economic Development (VPRED) as set forth by the Contract Approval and Execution Policy, (https://www.montana.edu/policy/contract_approval.html).

The University will only be bound to agreements that have been reviewed and approved in accordance with this policy and that have been executed by the VPRED or university officials who have specific signatory authority delegated to them.

The purpose of this policy is to establish the rules and guidelines that must be followed before entering into agreements governed by this policy. Agreements described in this policy may also be subject to other University policies and requirements, including the University Contract Approval and Execution Policy as well as any institutional approvals required by the Office of Research Compliance (ORC).

Where applicable and appropriate, approved templates for agreements governed by this policy shall be used when entering into agreements with third parties (https://www.montana.edu/orc/agreements/industry_grid.html). Any changes to the template agreements must comply with the University Contract Approval and Execution Policy.

The University will seek reimbursement of Facilities and Administration (F&A) costs in connection with agreements according to the University's established F&A rates (<https://www.montana.edu/research/osp/documents/infosheet.html>) unless costs are precluded by agency policy or under exceptional circumstances.

200.00 Signatory Authority

The Vice President for Research and Economic Development has signatory authority over all agreements governed by this policy. Such signatory authority may be delegated to appropriate University employees pursuant to the University Contract Approval and Execution Policy (https://www.montana.edu/policy/contract_approval.html). Individual faculty members do not have the authority to sign any agreement governed by this policy on behalf of the University.

300.00 Agreements Governed by this Policy (alphabetical)

300.10 Data Use Agreement

A Data Use Agreement (DUA) is an agreement used for the transfer of data that may be subject to some restriction on its use. A DUA serves to define the terms and conditions that apply to the transfer, storage, handling, access, distribution, and ultimate disposition of data shared under the agreement.

Specifically, DUAs address important issues such as limitations on use of the data, obligations to safeguard the data, liability for harm arising from the use or misuse of the data, publication review and approval requirements, and privacy or other legal rights that may be associated with certain types of confidential or protected data (for example, data derived from human subjects research).

300.20 Material Transfer Agreement

A Material Transfer Agreement (MTA) governs the transfer of biological and other tangible research materials (e.g., cell lines, cultures, bacteria, nucleotides, proteins, transgenic animals, pharmaceuticals, seeds, and chemicals) between the University and a third party for research or non-commercial purposes. An MTA establishes the permitted uses of the materials, protects proprietary material, and establishes the rights granted to each party with regard to the use of the material and any intellectual property developed using the materials.

300.30 Memorandum of Understanding

A Memorandum of Understanding (MOU) is intended to be an agreement between the University and a third party that serves to document expectations or intentions in the parties' dealings, such as to explore the possibility of a future relationship or engagement between the parties. Additional agreements may be required to specify any rights or obligations between the parties that exceed the scope of the MOU. Examples of obligations that exceed the scope of an MOU include:

- committing resources, such as effort, space, or in-kind support;
- providing rights or benefits to another party such as rights to reports, intellectual property, or data;

- incurring risk, such as indemnification of another party; and
- specific deliverables promised.

300.40 Non-Disclosure Agreement

A Non-Disclosure Agreement (NDA) is an agreement between the University and a third party that is intended to prohibit the disclosure of proprietary or confidential information.

The University or the individual employee must seek an NDA before disclosing University information that may be potentially patentable, has unique value to the University or otherwise requires protection from dissemination for other reasons, such as Personally Identifiable Information (PII).

Any individual who is responsible for disclosing or receiving confidential information under the agreement must act in accordance with the terms of the NDA. In addition to an authorized University signatory, some NDAs also require the individual signatures of faculty members or other employees who may be disclosing or receiving confidential information in acknowledgement of their obligations under the NDA.

300.50 Research Collaboration Agreement

A Research Collaboration Agreement (RCA) is an unfunded research agreement used when the University and a third party collaborate for research purposes. A Research Collaboration Agreement may include terms governing the following:

- Scope of work to be conducted.
- Schedules and deliverables.
- Publication of the research results.
- Intellectual property arising from the research collaboration.
- Care of data and confidential information exchanged during the research.
- Transfer of materials among the collaborating organizations.
- Compliance with export control and other laws and regulations.
- Rights and procedures to terminate the project.

300.60 Sponsored Research Agreement

A Sponsored Research Agreement (SRA) is an agreement used when the University receives funding from a third party for a particular researcher or researchers to pursue a specific area of research. SRAs contain a statement of work, budget, and period of performance, and stipulate reporting requirements, and any other sponsor terms and conditions

applicable to the funding (<https://www.montana.edu/policy/gifts/>). The University typically owns any intellectual property created under the agreement but may allow a license option to the sponsor pursuant to a separate license agreement.

300.70 Testing Services Agreements

A Testing Services Agreement (TSA) is an agreement between the University and a third party to perform specific tests specified by the third party. The third party owns the intellectual property or proprietary interests in the material being tested. Ownership of any intellectual property resulting from the testing services shall be identified in the TSA.

The University's performance of testing services is justified when the following criteria are met:

- (1) the desired facilities or capabilities do not exist in the private sector or are not readily accessible;
- (2) the tests to be performed involve methods of a primarily technical nature that can be specified in advance; and
- (3) the work does not entail original, creative research.

The TSA is intended to provide deliverables to a third party, which may include data, reports, and/or prototype items but must not have as an objective the creation of new intellectual property for the University. Testing services that are expected to result in the creation of new intellectual property by University employees should be considered research that requires a Sponsored Research Agreement.

400.00 Contracts Made in Violation of Policy

Agreements made in violation of this policy, i.e., without proper authorization, signatures, or review by the appropriate offices, or that violate the law or Board of Regents or Montana State University policies, are voidable at the discretion of the University. No contract may be voided without the approval of Procurement and Contract Services or the Office of Legal Counsel.

Employees who make or sign agreements in violation of this policy may be subject to additional mandatory signature authority training, revocation of signatory authority, and potential personal liability for the agreement and any damages caused to the university. Failure to comply with this policy, including egregious, repeated, or intentional violations of

this policy, may be considered a violation of the professional standards expected of University employees and may result in disciplinary action up to and including dismissal.