

**UNIVERSITY OF CALIFORNIA,  
SANTA BARBARA**

**OFFICE OF RESEARCH POLICY**

**RESEARCH CIRCULAR E.1.**

**POLICY ON MATERIAL TRANSFER AGREEMENTS**

**Issued: January 2012**

**I. References**

- A. Guidelines on University-Industry Relations, University of California, Office of the President (May, 1989);
- B. Academic Personnel Manual Chapter 020, Section II.5;
- C. Principles Regarding Rights to Future Research Results in University Agreements with External Parties” (August 26, 1999); and,
- D. Redelelegation of Contract and Grant Authority to Add Material Transfer Agreement (MTA) Delegation, University of California, Santa Barbara (October 1, 2011), as amended.

**II. Overview**

A Material Transfer Agreement (MTA) is a legally binding contract that governs the transfer of tangible research materials between two organizations. An MTA is used when an organization is providing the materials as a public service to support academic or scholarly research. Consistent with this purpose, the materials are typically provided either for free or for a nominal fee to cover costs. There is often no formal collaboration between scientists at the two organizations, although MTA terms can be embedded in a research agreement (or an MTA simultaneously executed) when the parties anticipate materials will be exchanged during the research project.

MTAs are used to transfer a broad array of materials, including biological materials (such as plant samples, reagents, cell lines, plasmids, bacterial strains and vectors), chemical compounds, engineering components (including wafers) and even, depending on the circumstances, software and data.<sup>1</sup> MTAs are considered “Incoming MTAs” when materials are being provided to a UCSB researcher from another organization, and “Outgoing MTAs”, when the University of California, Santa Barbara (UCSB) researchers desire to share materials with others.

The use of MTAs is widespread in today’s research and development environment, occurring when materials are transferred to and from universities, government agencies, commercial

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<sup>1</sup> Data is provided under MTA-style terms when a data access agreement is required by the organization providing the data.

firms, nonprofit organizations, and others.

### III. Policy

#### Incoming MTAs

All incoming MTAs must be reviewed and executed by the UCSB Office of Technology & Industry Alliances (TIA), which is the only campus office with the delegation of authority to sign MTAs.

MTAs specify the rights, obligations, and conditions that attach to the receipt of a particular material. While many incoming MTAs are relatively simple and straightforward, an incoming MTA will often address complex issues such as intellectual property ownership/access, publication, permitted/restricted uses and liability for damages. Occasionally, a provider will use the provision of materials as leverage to extract inappropriate intellectual property rights or control over the research project and resulting publications. As with any agreement related to academic research, it is critical to assure the terms of the proposed MTA will not negatively impact the researcher's academic freedom or ability to publish. It is also important to assure that the proposed MTA terms do not conflict with the terms of relevant funding contracts or grants, do not create any unreasonable administrative burdens on the researchers or their departments, and are consistent with applicable UC policies and practices.

#### Outgoing MTAs

Because MTAs cover a wide array of materials and data, researchers are encouraged to contact the MTA Officer in TIA to determine if an outgoing MTA is needed for a contemplated material transfer. MTAs are executed to authorize the transfer of materials between two organizations. Even if an outgoing MTA is not required, it is important to assure that the underlying transfer of materials is consistent with U.S. export control laws and UCSB's export control policies and practices. Under U.S. export control laws, a formal export control license may be required from the Bureau of Export Administration of the Department of Commerce before certain materials can be sent to certain non-U.S. destinations. Many materials that may seem innocuous to the researcher have some level of restriction under U.S. export control law. If an export control license is not obtained when one is required, both the university and the involved researchers may be exposed to both civil and criminal liability. If any materials are to be shipped to non-U.S. destinations, it is critical for researchers to work with the UCSB Export Compliance Officer in advance of any actual transfer of the materials to determine whether an export control license is needed.

There are some circumstances where an outgoing MTA is not required, namely for:

- The transfer of materials to a non-profit research organization (including government laboratories) for that organization's internal research use. Provided that, prior to any outgoing transfer of animals or materials that can be used in humans, the researcher sending the materials expressly states to the recipient of

the materials, in writing, that the materials cannot be further distributed without UCSB's permission and that the materials cannot be used in humans. Researchers are responsible for keeping a record of this statement. In the alternative, the researcher can provide a copy of the statement to the TIA MTA Officer for record retention.

- The transfer of an unmodified, naturally-occurring, non-hazardous material that does not contain any human or animal tissue (such as a sample of granite or dirt)
- The transfer of material to another nonprofit, research organization when the purpose of the transfer is to send material for the researcher's own use (such as sending material in advance of a sabbatical trip to a host institution for personal use during the visit)
- Materials that have been purchased commercially
- The transfer of purchased equipment or instrumentation to the seller for repair or replacement
- The transfer of documents

An outgoing MTA is strongly encouraged if the material to be transferred relates to an invention that has been disclosed to the UCSB TIA office. Additionally, TIA will issue an MTA for any outgoing material transfer upon request.

#### **IV. Delegation of Authority**

The Office of Technology and Industry Alliances (TIA) is the only office at UCSB with the authority to negotiate and sign MTAs. The following positions within TIA have been delegated the authority to negotiate and sign MTAs:

Director of TIA  
MTA Officer

#### **V. Responsibilities for Material Transfer Agreements**

##### *Office of Technology & Industry Alliances Responsibilities*

TIA is responsible for reviewing MTAs to assure compliance with all applicable UCSB policies, practices and procedures and, if the proposed terms are not compliant, for conducting appropriate negotiations. TIA is also responsible for executing MTAs on behalf of UCSB.

TIA strives to review MTAs in a timely fashion to minimize any potential delays in research involving the requested materials or information. Most MTAs are negotiated and processed smoothly. However, it is not uncommon for an MTA to contain troublesome clauses that would impact a research project negatively or expose the university to liability. Such troublesome clauses can also potentially cause conflicting legal obligations to arise, as well as violate UC Policies. Incoming Material transfer agreements from companies for the transfer of proprietary materials can be challenging and may take more time. Researchers are encouraged to inform the MTA Officer of the need for an MTA as early as possible to help avoid any potential research delays.

### *Researcher Responsibilities*

Lead researchers are responsible for reviewing and following the terms of all MTAs related to their research activities, as well as assuring that their research group complies with all such terms. An MTA is a legal agreement – breaching of the terms of an MTA could result in liability.

### *Departmental Responsibilities*

As with any other research agreement, the department is responsible for assuring its research personnel comply with the terms of any executed MTA.

## **VI. Procedures and Implementation**

When a UCSB researcher receives an incoming MTA or requires an outgoing MTA, the following procedure is used:

1. The researcher completes the MTA Incoming Form or the MTA Outgoing Form, as appropriate, attaching any draft MTA provided by the other organization. (A copy of the forms can be downloaded from the TIA website.) The form can be submitted to the TIA MTA Officer either by hard copy, via email, or via fax.
2. The MTA Officer will review the information provided by the researchers and work with the other organization to develop appropriate MTA terms for the transfer.
3. If the MTA involves either the transfer of material to a foreign organization or shipment of material outside the United States, the MTA Officer will initiate a review for compliance with U.S. Federal Export Control regulations. Please note, however, that the MTA Officer will only review the export-compliance of materials that are the subject of a contemplated outgoing MTA. Researchers should contact the UCSB export control compliance officer directly for all other material transfers to locations outside the United States.
4. Once appropriate terms are reached, the MTA Officer will sign the agreement on behalf of UCSB. The fully-executed MTA will be uploaded into the Office of Research's ORBiT system for electronic distribution. Additionally, a copy of the signed MTA will be sent to the lead researcher for his or her records.