THE UNIVERSITY OF MICHIGAN

STANDARD PRACTICE GUIDE

SECTION:	Research	**Number:**	303.1
		Revised:	2/17/93
SUBJECT:	Implementation of Regents' Policy Concerning Research Grants, Contracts, and Agreements	**Date Issued:**	
		Attachment(s)	1
APPLIES TO:	All Research Grants, Contracts and Agreements Accepted by the University		
ISSUED BY:	Office of the Vice President for Research		

On April 17, 1987 the Regents approved a new policy on research grants, contracts and agreements to replace their previous policy on classified research. The new policy applies to ALL research grants, contracts and agreements accepted by the University, not merely classified research agreements. It continues the University's commitment not to accept research agreements in secret.

This document describes the implementation of the Regents' Policy. It is organized into three parts and an attachment:

Part I. Introduction to Key Features of the Regents' Policy,

Part II. The text of the "Regents' Policy on Research Grants, Contracts and Agreements" (approved April 17, 1987),

Part III. Definitions and Review Procedures for Compliance with the Regents' Policy, and

Attachment: Supplementary Proposal Approval Form PAF-R for review of "non-standard restrictions" and "classified research restrictions".

This set of implementing procedures has been constructed with great care, drawing on the Regents' policy and their discussions, on the comments from the community, and on the collective experience in the Office of the Vice President for Research (OVPR). We in OVPR welcome comments from you as we operate with these guidelines. Should we find significant difficulties with the procedures, we will make the necessary adjustments.

I. Introduction to Key Features of the Regents' Policy

The Regents assigned responsibility for compliance with the policy to the four levels in the regular channels for review and authorization of research grants, contracts and agreements -- the principal investigator, the department chairman, dean/director, and the Vice President for Research. At each level this responsibility involves consideration of the sponsored research in the context of the mission of the institution, the principles of open scholarly exchange and academic freedom, and the University's tradition of conducting research aimed at enhancing human life and the human condition. The Regents recognized that some sponsored research might require a balancing of these contextual considerations. They did not specify criteria to be used in deriving the balance. Instead they expressed

confidence in the faculty and administrators in the regular review channel to make such judgments.

The Regents' new policy continues the University's general reluctance to accept sponsor-imposed restrictions on openness of research results, but it does not impose a single set of parameters for acceptability of such restrictions. The Regents expressed their general agreement with the standards being applied by the University in its negotiations with sponsors, but made clear their belief that the University must have the flexibility to depart from these standards in special situations. The policy also states explicitly that the University will accept classified research agreements under certain conditions.

Historically, the vast majority of sponsors of University research has imposed no restrictions on academic freedom or openness of research or its results. We expect no significant change in the incidence of sponsor-imposed restrictions.

Sponsor-imposed restrictions on openness, when they do arise, become known at various stages of the proposal/award cycle and they may or may not be negotiable. The implementing procedures for the Regents' policy must therefore accommodate these diverse circumstances.

The implementing procedures described in Part III, below, impose no special justification and documentation requirements for sponsor-imposed restrictions falling within a defined set of "standard" restrictions based on existing University practices. The implementing procedures call for explicit review and documentation, using a Supplementary Proposal Approval Form (PAF-R), for the two other categories: "non-standard restrictions" and "classified research restrictions." (See Part III and Attachment, below.) The procedures call for prompt consultation between the principal investigator and the Division of Research and Development Administration (DRDA) Project Representative when either discovers a sponsor's intent to impose a restriction on openness of research results.

In their interaction with sponsors, principal investigators bear a responsibility to reflect the University's commitment to academic freedom and openness in research. DRDA will use its considerable experience to negotiate the most acceptable terms in sponsored research agreements.

To keep the University community informed, DRDA will continue to provide the monthly listing of awards in the Reporter and the Regents' Agenda Book. Classified research agreements will continue to bear an asterisk in the listing of awards.

As instructed by the new policy, the Vice President for Research will provide to the Regents, after consultation with the Senate Assembly Research Policies Committee, an annual report on the implementation of the policy.

Questions regarding implementation procedures for the policy should be directed to DRDA (764-5500). Other questions should be referred to the Research Policy Advisor in OVPR (763-1290).

II. Text of the Regents' Policy

THE UNIVERSITY OF MICHIGAN REGENTS' POLICY
CONCERNING RESEARCH GRANTS, CONTRACTS, AND
AGREEMENTS
(Approved by Regents, 4/17/87)

The mission of the University is to generate and disseminate knowledge in the public interest. Essential to this mission are two fundamental principles: open scholarly exchange and academic freedom. Normally, these principles are mutually supportive. On those rare occasions when they conflict, they must be balanced, taking into account the University's mission and the public interest. The University also has had a longstanding tradition of conducting research aimed at enhancing human life and the human condition. Given these principles and continuing tradition, the following guidelines govern the acceptance of research grants, contracts, or agreements by the University:

1. The University will not enter into or renew any grant, contract, or agreement that would restrain its freedom to disclose the existence of the document, the identity of any sponsor of the proposed research, or the purpose and scope of the proposed research.

2. The University normally does not accept grants, contracts, or agreements for research which unreasonably restrict its faculty, staff, or students from publishing or otherwise disseminating the results of the research.

3. The University will accept a classified research grant, contract or agreement if it can be accommodated without compromising the University's pursuit of its educational mission and if its purpose is clearly in the public interest.

4. Nothing in these provisions shall prohibit grants, contracts, or agreements that restrict publication or other public dissemination of classified or proprietary information supplied to the investigator by the sponsor, as distinguished from information generated in the course of research performed by members of the University community.

5. Where the sponsor supplies classified or proprietary information to the investigator, the grant, contract, or agreement may include reasonable provisions for submission of manuscripts arising from the sponsored research to the sponsor for review prior to publication or other public dissemination so that the sponsor may verify that no such classified or proprietary information is disclosed.

6. The responsibility for compliance with these policies rests with the principal investigators, the department chairs, the deans of the schools and colleges, and the directors of the institutes and centers, and the Vice President for

Research, in the regular channels for review and authorization of such research grants, contracts, and agreements.

7. Periodic assessment and review of the impact of these policies are appropriate and necessary. The Vice President for Research shall provide to the Regents, after consultation with the Senate Assembly Research Policies Committee, an annual report on the implementation of this policy.

III. Definitions and Review Procedures for Compliance with Regents' Policy on Research Grants, Contract and Agreements

A. Definitions

To facilitate compliance with the Regents' Policy, sponsor - imposed restrictions on openness of research will be categorized as follows:

1. "Standard Restrictions"

The following restrictions are outer limits of what has been routinely accepted in research grants, contracts, and agreements by the University provided that the principal investigator agreed to them. Restrictions which exceed these limits have been accepted and may be accepted in the future, but they will require consideration in Category 2 or 3 below.

a) Delay* in publication or other dissemination of research results for a period of time deemed reasonable for the specific agreement but usually not to exceed 120 days, to permit sponsor review for:

(1) Comment (not for prior approval).

(2) Protection of confidential information provided by the sponsor.

(3) Possible participation in the protection of intellectual property.

Under unusual circumstances and with the concurrence of the principal investigator, a time delay of up to 180 days may be accepted in the negotiation of a sponsored agreement. Any publication delay of greater than 120 days shall be reported annually to the OVPR.

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* The University accepts with reluctance, and only with the principal investigator's concurrence, a sponsor's requirements to delay exercise of the investigator's prerogative to determine the appropriate timing for release of research results. A delay is considered to begin when an investigator would release the results if there were no sponsor constraint. The period of delay may or may not bear a relationship to the expiration of the funding period.

b) Delay in publication or other dissemination of research results in order to provide reasonable time for research units participating in a multi-center or consortia project to conclude their studies. Such research may be conducted either concurrently or sequentially at a number of university or research centers. A reasonable and determinate time delay for publication will be agreed upon by all parties at the outset of the project.

c) Beta test agreements and other forms of routine testing, where the results are not expected to be publishable as research findings, are not included under the Regents' Policy on Research Grants, Contracts and Agreements. For the purpose of these guidelines, a "beta test" involves the authorized use -- for evaluation, assessment, and/or research -- of experimental or prototype equipment, models, devices, pre-release versions of software, or other copyrightable material -- which are not publicly available -- on the condition that the results will be shared with the provider/beta test sponsor.

d) Agreement to refrain from disclosing the sponsor's confidential information for a determinate time period deemed reasonable for the specific agreement. Note - if protection of information by Federal security classification is involved, the restriction will be treated under Category 3, "Classified Research." See below.

e) Controlled access to University facilities which does not interfere with other University activities and does not interfere with access to non-classified, non-confidential information.

If the sponsor-imposed restrictions fall within the above parameters, no special documentation or consideration of their reasonableness is required. The signatures on regular Proposal Approval Form (PAF) will suffice.

All other sponsor-imposed restrictions on openness must be handled in Categories 2 or 3 below.

2. "Non-Standard Restrictions"

Restrictions that do not fall within those described above as "Standard Restrictions" and which do not involve Federal security classification are called "Non-Standard Restrictions."

Categorization of a restriction as "non-standard" is not in itself a determination regarding its reasonableness or compliance with the Regents' policy. Such restrictions require explicit review and approvals, using a Supplemental Proposal Approval Form PAF-R. See Procedures below.

3. "Classified Research Restrictions"

"Classified Research Restrictions" are those which involve Federal security classification and therefore impose a detailed set of external requirements on the University. A classified research contract or agreement can be accepted if it can be accommodated without compromising the University's pursuit of its educational mission and if its purpose is clearly in the public interest. "Classified Research Restriction" require explicit review and approvals using a Supplemental Proposal Approval Form PAF-R. See Procedures below.

B. Procedures

1. Basic Procedures

The University's procedures for reviewing all proposals for externally sponsored research ask a series of individuals -- the principal investigator, department chair, Dean/Director, and the Vice President for Research -- to address certain matters, e.g., personnel, space, budget, involvement of human subjects, animals, etc. The DRDA Proposal Approval Form (PAF), attached to the proposal when it enters the approval chain, prompts decision-makers to consider whether the proposed research conforms to institutional policies and has received all required approvals. The signatures on the PAF represent approval of the proposed activity, certification that the information on the PAF is correct, and assurance that the proposed activity is deemed consistent with institutional policies.

2. Procedures for Implementing the New Regents' Policy on Research Grants, Contracts and Agreements

The review process for compliance with the new Regents' policy is incorporated within the regular authorization system described above.

At each of the four levels of review the sponsored research is to be considered in the context of the mission of the institution, the principles of open scholarly exchange and academic freedom, and the University's tradition of conducting research aimed at enhancing human life and the human condition. Where balancing these contextual considerations is required, the individuals in this review channel have the responsibility to form the judgment required.

Approval of all levels is required for sponsored research to be accepted by the University.

Sponsor restrictions on openness of research may become known at the proposal stage, the award stage, or any time in between. Sponsor restrictions on openness may or may not be negotiable.

The procedures for handling proposals and awards will accommodate this broad range of circumstances to give as much flexibility as possible while still providing for careful judgments to be made regarding compliance with the Regents' policy. DRDA staff members will use their experience to negotiate the most acceptable provisions for each award.

Principal investigators and DRDA Project Representatives should confer with each other as soon as either learns that sponsor-imposed restrictions may be involved. When interaction between the principal investigator and the sponsor precede the proposal and/or the award, the principal investigator should take special care to reflect the University community's commitment to openness and academic freedom.

Sponsor-imposed restrictions in the "Standard" category require no special documentation of review and acceptance.

Sponsor-imposed restrictions in the "Non-Standard" and "Classified Research" categories require preparation of the Supplementary Proposal Approval Form (PAF-R) and its review and approval by the four signatories (principal investigator, department chair, Dean/Director, and Vice President for Research) designated by the Regents as responsible for judging the acceptability of such restrictions.

The University of Michigan

Supplemental Proposal Approval Form (PAF-R)
APPROVAL OF RESTRICTIONS ON OPENNESS OF RESEARCH

Proposal No. DRDA _____
Date _____

Category 2 "Non-standard" Restrictions

For Sponsor-Imposed Restrictions that are not "Standard" and do not involve Federal Security Cassification requirements, provide the following information on an attached sheet:

a) Description of anticipated contractual restrictions,

b) Identification of implications of the restrictions for education, scholarly exchange, and management of personnel and facilities, and

c) Justification for accepting the restrictions.

Category 3 "Classified Research"

For grants, contracts or agreements which impose Federal Security Classification requirements, provide the following information on an attached sheet:

a) DD254 Form (or equivalent for agencies other than DOD) or description of anticipated type of classification.

b) Description of how the project will be accommodated without compromising the University's pursuit of its educational mission,

c) Description of the project's anticipated contribution to the public interest.

Approval by Project Director	DRDA Project Representative
Approval by Dept. or Unit Head	DRDA Director
Approval by Dean	Approval by Vice President for Research