

Material Transfer Agreements (MTAs)

The transfer of materials and research tools is an essential part of scientific research. When a paper is published, the scientist must provide the material to fellow researchers in order for others to repeat the experiment and verify the results. A material transfer agreement (MTA) is the legal contract used to define the terms and conditions for the exchange of materials.

MTAs are essential to protect:

- Publication rights
- Intellectual property rights
- From liability to other parties.

When the material is of a unique or proprietary nature, the provider may wish to control how the material is used and limit its further distribution.

An MTA typically sets forth rights to use the materials and may allocate rights to the results of their use. Often MTAs address such issues as publication, limitations on the use of the materials, and the intellectual property rights of the provider and the recipient in inventions arising from the use of the material.

Given that money is rarely associated with these transfers, MTAs may be perceived by some to be inconsequential transactions. However, they are binding legal agreements that can impact a researcher’s current and future research.

MTAs are processed through the Office of Technology Transfer. In order for us to process your MTAs in a timely manner, please bring them to us as early as possible, well before the materials are required, as some MTAs require time to negotiate.

What are the NIH’s “Principles and Guidelines for Recipients of NIH Research Grants and Contracts on Obtaining and Disseminating Biomedical Research Resources”?

The “Principles and Guidelines” defines expectations for NIH-funded recipients when exchanging biomedical research materials and tools; they are available at http://ott.od.nih.gov/NewPages/Rtguide_final.html.

Although originally issued as guidelines, they are now a condition of funding and arguably rise to the level of a contractual obligation. Under the *Principles and Guidelines*, scientist and

institutions are expected to broadly disseminate tools that arise from NIH-funded research with as few encumbrances as possible.

Types of MTAs for requesting or providing materials:

1. Academic/non-profit (easiest, takes the least amount of time; standardized forms exist)
2. Non-profit but commercial potential (more involved than academic/non-profit; non-standard forms)
3. For-profit/company (usually requires negotiation and takes the longest amount of time)

Under what circumstances are an MTA needed?

- The material can be easily replicated or reproduced
- The material and/or information is the subject of a patent application
- The material or information has been licensed for commercial use or sale
- The material is infectious, hazardous or subject to special regulations

- The provider is concerned about potential liability
- The provider wishes to obtain clear rights to what is produced from the material
- The provider wishes to ensure that correct and appropriate acknowledgment is included in any publications regarding the use of the materials.

What MTA terms frequently raise problems?

Universities typically avoid terms that:

- Restrict academic freedom, such as restrictions on publication;
- Assert excessive rights of ownership in the research results or derived materials;
- Ask for inappropriate indemnification by the university; and/or
- Create conflicting obligations (with other sources of funds or materials).

Is it reasonable to charge fees for the transfer of material?

While the majority of MTAs occur without any associated fees, some

MTAs do include a nominal charge to the recipient. This fee is generally calculated to offset the costs incurred by the provider in preparing and shipping the material (or animal).

Are there other means of providing materials to others when the obstacle is time and effort?

There are two ways to handle a time and effort problem, neither involving an MTA:

- The materials may be suitable for deposit in a publicly-supported or user-fee-supported facility. For example, some cell lines may be accepted for the maintenance and distribution by the American Type Culture Collection; or
- The right to make and distribute the materials at nominal cost may be licensed to a company that sells reagents to the research community. In this instance, the company becomes the provider, thus alleviating the research from the task of distribution.

Who has the authority to sign an MTA?

All agreements that bind the university, including MTAs, must be signed by an officer of the institution having signatory authority. Agreements that are not signed by an authorized institutional official may not be valid and may make the signor personally responsible for any breach of the terms and obligations of the MTA. Additionally, since the researcher utilizing the materials is responsible for fulfilling most of the obligations under an MTA, it is recommended that he or she also sign the agreement, not necessarily as a party to the agreement, but as an acknowledgment of his or her duties under the agreement.

What is Rockefeller's position on MTAs?

The Office of Technology Transfer will prepare outgoing MTAs and review incoming MTAs as a service to the research community. We encourage MTAs to accompany material that is being sent out from Rockefeller that can be easily replicated or reproduced.



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