

Multi-Party Agreements

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Contemporary Contracting
Approaches

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Strengthening
University-Industry
Partnerships

Multi- Party Agreements

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The possibilities are many.

- > one company + one university
 - > one university + one company
 - > one university + > one company
 - govt. + one university + one company
 - govt + > one university + > one company
 - govt + > one university + > one company
- (you get the idea)



Survey – pick one

1. I avoid Multi-Party Agreements at all costs!
2. I've used Multi-Party Agreements when forced
3. I consider Multi-Party Agreements a good option



Multi-party agreement makes sense when the project:

- Is of interest to multiple parties but too expensive for one
- Requires expertise from different parties
- Has phases that require different parties at each phase
- Involves basic or platform research that can then be adapted by parties for their own use.
- Is about common precompetitive issues
- Enable sharing views with competitors in a “safe” environment
- Promotes or develop standards for an industry sector
- Requires access to data from multiple sources



Multi-party agreement does not make sense when the project:

- Requires expertise from different sources can be obtained through subcontracts or consulting agreements
- Involves platform or basic sciences that can be handled with discreet application to each sponsor
- Has modules or phases that are not dependent on each other
- Requires background IP of confidential information that can't be shared by the University
- Is likely to result in IP that a company wants exclusively and in all fields



A Multi-party agreement is either very simple or quite complex

- University defines SOW
- All parties contribute the same fixed amount
- All parties get a report of the results
- University grants a non-exclusive royalty free license to the results university has no obligation to obtain IP protection



A Multi-party agreement is either very simple or quite complex

- Parties jointly define SOW
- Parties have obligation to perform part of the SOW
- Confidential information is needed from some parties
- All parties contribute a budgeted but different amount
- All parties get a report of the results
- IP is optioned, IP protection costs and control based on which parties exercise options
- Parties get different rights depending on needs
- Parties agree not to enforce obtained IP rights against other parties



A relatively simple example – single project, multiple sponsors*

Project - explore the chemical composition of “normal” human blood plasma, named the Human Blood Plasma Consortium

- Pfizer and BMS contribute \$\$ equally to the University.
- Each party gets access to the database and a defined amount of each identified plasma component
- University agrees not to publish whole database for 5 years
- University owns IP (patents and software)
 - NERF for internal use, option for additional rights, option fee
- No confidential information from any party without separate NDA.
- Committee reviews project progress, budget, addition of other members
- After BMS and Pfizer signed the SRA, Takeda, Human Metabalome, Keio University, NCI and Agilent all joined by individual amendments adding funds, equipment and agreeing to SRA terms.



What you need to know to get started:

- How is the SOW developed?
 - Prior to contract (single or multi-party process)
 - Teaming agreement or NDA
 - Per process defined in contract
- What does each party do?
 - Each party performs part of the project or a whole project as part of a broader objective
 - Timing, dependencies, deliverables of projects are defined
- What does each party give?
 - \$\$, materials, equipment
 - Personnel
 - Information, data
 - Access to facilities



Getting started con't:

- What does each party get?
 - Input, seat on advisory committee
 - Reports, deliverables (as described in SOW)
- IP rights
 - Nonexclusive (or open source)
 - Option to exclusivity
 - In field of use
 - Only available if only one party wants
 - Public Dedication
 - Obligations to other parties
 - Forbearance (agreement not to assert rights against other parties)
 - Preferred cross-license terms



Consider this single sponsor, multiple universities, IP idea

Institution is a member of the Pritzker Consortium (“Consortium”.) The Consortium is funded by the Pritzker Neuropsychiatric Disorders Research Fund LLC. and includes the Regents of the University of Michigan, The Board of Trustees of The Leland Stanford Junior University (“Stanford”), the Regents of the University of California on behalf of its Irvine and Davis campuses, Weill Medical College of Cornell University and the HudsonAlpha Institute for Biotechnology as members.The members of the Consortium have agreed to assign all inventions resulting from the use of funds provided under the Consortium to Stanford. Stanford has the exclusive right to license or otherwise exploit such inventions for commercial purposes and to conduct all related patent and licensing activity.



Consortia or Multi-party Agreement

Multi Party	Consortia
Cooperative, active	Members may be passive
Parties may have different obligations	Members have same obligations as other members like them
Parties negotiate to secure what they need/want	Each member has basically same agreement with the host institution
Each party has privity of contract with the other parties	Members have no privity of contract with other members
IP rights tailored to meet parties' needs	IP right per "club rules"

Tips

- Easiest if parties are vertically vs. horizontally related
- Fixed price per sponsor is easiest
 - Co-mingling of funds, no individual financial reports
 - Segregate funds provided by government agencies (subaccount)
- Participants involved in only one part of a project may be subcontractors, consultants instead of parties
- Advisory structure – committee, bylaws, required meetings, etc. to make decisions about project(s) facilitates cooperation, early alert of problems
- Run terms by most important party(ies) first than send agreed draft to others



Survey – pick one

1. I'm convinced Multi-Party Agreements are doable.
2. I'm still nervous but will give them a try.
3. No way I'm going to do one of these.



Read More

- **Establishing Precompetitive Collaborations to Stimulate Genomics-Driven Product Development: Workshop Summary**, [Institute of Medicine](#), [Board on Health Sciences Policy](#), [Roundtable on Translating Genomic-Based Research for Health](#), National Academies Press, Mar 17, 2011
- Anderson, Mark, **Managing the negotiation of multi-party research agreements**, Blog, 18 APRIL 2015 · 1:02 pm retrieved from <https://ipdraughts.wordpress.com/2015/04/18/managing-the-negotiation-of-multi-party-research-agreements/>
- Steinbock, Martha Bair, **How to Draft a Collaborative Research Agreement**, chapter 7.4 in *Intellectual Property Management in Health and Agricultural Innovation: A Handbook of Best Practices* (eds. A Krattiger, RT Mahoney, L Nelsen, et al.). MIHR: Oxford, U.K., and PIPRA: Davis, U.S.A. Available online at www.ipHandbook.org.



**THANK
YOU!**

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Strengthening
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Member
Webinar

WEDNESDAY,

APRIL 8, 2020

12 to 1 p.m. EDT



Jim Bray
Northwestern
University
Moderator



How Companies Approach Academic Research Engagement in these Disruptive Times

[Join us](#) to learn how our industry members, in diverse sectors, are evaluating and reframing their current approaches to academic collaborations.

Panelists



Gaylene Anderson
Boehringer Ingelheim
Pharmaceuticals, Inc



Kent Foster
Microsoft



Austin Kozman
PepsiCo