

UNITED STATES PUBLIC HEALTH SERVICE TECHNOLOGY TRANSFER POLICY MANUAL

Chapter No. 502

PHS Uniform Biological Material Transfer Agreement

A. PURPOSE

This Manual Chapter sets forth the Uniform Biological Material Transfer Agreement (“UBMTA”), an agreement for use by participating public and nonprofit organizations as a means of simplifying and expediting biological material transfers between those organizations.

B. BACKGROUND

Open access to the results of federally-funded research is a cornerstone of the Public Health Service (PHS) research policy. In the case of many research projects, this includes not only access to information provided through publications, but also access to biological research materials necessary to replicate or build on the initial results. Frequently, the exchange of research materials between scientists in separate organizations involves case-by-case negotiation of Material Transfer Agreements (“MTAs”). In order to guide and facilitate the increasing number of transfers, PHS issued a “Policy Relating to Distribution of Unique Research Resources Produced with PHS Funding” [*NIH Guide for Grants and Contracts*, Vol. 17, No. 29, September 16, 1988: pg. 1; also published at pp. 8-25-8-26 of the PHS Grants Policy Statement, DHHS Publication No. (OASH) 94-50,000 (Rev.) April 1, 1994]. While most other organizations have adopted some standard material transfer agreement form, the language used in these agreements is not consistent.

Several issues have affected the sharing of research materials. These include delays in sharing of materials while conducting unnecessarily extensive negotiations on individual MTAs, required grants of invention rights to improvements to the materials or to inventions made using the materials, and required approval for publication. The negotiation of these complex issues has resulted in significant delays in sharing materials, undue administrative barriers to sharing, and in some cases, lack of availability of materials for further research by federal grantees.

The PHS, in conjunction with representatives of academia and industry, coordinated the development of the uniform biological material transfer agreement (“UBMTA”) to address concerns about contractual obligations imposed by some MTAs and to simplify the process of sharing proprietary materials among public and nonprofit organizations. The consistent use of the UBMTA by public and nonprofit organizations reduces the administrative burden of sharing materials as investigators and public and nonprofit organizations rely on the UBMTA’s standard terms.

C. POLICY

The PHS recommends that the UBMTA or one of the other approved NIH model MTAs set forth within the PHS Technology Transfer Policy Manual 500 series chapters be considered for general use in the exchange of materials for research purposes among public and nonprofit entities. For-profit organizations also may choose to adopt these agreements as well. While use of the UBMTA or other NIH model MTAs may not be appropriate for every material transfer, their use for the majority of transfers, could set standards for materials sharing that would be of long-term benefit to the research enterprise and to the public health.

D. PROCEDURES FOR USE OF THE UBMTA

To simplify the process of materials sharing, the UBMTA has been approved by PHS and may be handled in a master agreement format with other institutions that have executed an unmodified UBMTA Master Agreement. Individual transfers may be made with reference to the UBMTA, without the need for separate negotiation of an individual document to cover each transfer. Transfers of materials may be accomplished by an Implementing Letter (see Appendix) containing a description of the material and a statement indicating that the material is being transferred in accordance with the terms of the UBMTA. The Implementing Letter may be executed by the provider scientist, the recipient scientist, and any other authorized official(s) of the provider or recipient organization who might be required to sign on behalf of the organization.

Thus, sharing of materials between organizations, each of which had executed the UBMTA, would be significantly simplified. At the same time, any organization would retain the option to handle specific material with unusual commercial or research value on a customized basis. Thus, the use of the UBMTA would not be mandatory, even for signatory organizations. Administration of the signatory process also may be organization-specific. For example, organizational policies may require additional, or fewer, signatures.

The Association of University Technology Managers (“AUTM”) provides assistance in the implementation of the UBMTA among its members and nonprofit organizations by notifying members of its availability in its newsletters, providing signature copies of the agreement at its annual meetings, assisting with training regarding material transfers, and maintaining a master list of signatories to the UBMTA on its website at <http://www.autm.net/Home.htm>.

E. EFFECTIVE DATE

The UBMTA was effective March 8, 1995. This chapter was approved by the PHS Technology Transfer Policy Board on March 8, 2012.

F. ADDITIONAL INFORMATION

For more information on this Manual Chapter, contact the Office of Technology Transfer, NIH, (301) 496-7057 or http://www.ott.nih.gov/contactus/contact_us.aspx.

A copy of the UBMTA is available at:

http://www.ott.nih.gov/forms_model_agreements/forms_model_agreements.aspx#MTACTA

For additional information on what institutions have executed the UBMTA, contact the UBMTA Project, Association of University Technology Transfer Managers at:

<http://www.autm.net/Home.htm>