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INTERNATIONAL DEVELOPMENT RESEARCH CENTRE

CENTRE DE RECHERCHES POUR LE DÉVELOPPEMENT INTERNATIONAL



Ideas. Innovation. Impact.

Idées. Innovation. Impact.

Canada



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Canadian public & private sector best practices in research contracting:

Michael Clarke

Bellagio: Fair Research Contracting

2012-10-23

Canada 

Public Sector – Government of Canada

- The Government of Canada's primary objective in entering into Crown Procurement Contracts is to receive the deliverables contracted for, and to be able to use those deliverables, and any Intellectual Property arising by the virtue of such Crown Procurement Contracts for Government of Canada activities.
- The Government of Canada has an overall objective of promoting economic growth and job creation in Canada and has made specific provision for social and economic development objectives to be pursued through procurement.
- The Government of Canada believes that Commercial Exploitation of Intellectual Property contributes to economic growth and job creation.
- The Government of Canada believes that Commercial Exploitation of Intellectual Property is best achieved by the private sector.

Government of Canada

Intellectual Property

5.1 It is the policy of the Government of Canada that the Contractor be the owner of any Foreground created by the Contractor arising by virtue of a Crown Procurement Contract, subject to "Exceptions" as set out in Section 6.

5.2 The Crown may require a royalty-free licence to have the right to use, or have used by a third party, the Foreground owned by the Contractor for Government of Canada activities. The right to use the Foreground could include, without being limited to, the right to manufacture, reproduce and modify.

Building Capacity



The 'Canada School of Public Service' provides training, for example:

Procurement specialists, program or project managers, and some materiel management and real property specialists must have a good understanding of the key concepts of intellectual property and how to apply the Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts. This course includes six 15-minute modules, covering the top intellectual property questions in the government context, including how to apply the decision-making process for intellectual property rights in the context of Crown procurement contracts. Participants will learn about different situations where questions of intellectual property can arise. [C282]

Topics include:

- intellectual property terminology and key concepts
- purpose, application and exceptions of the Policy
- licensing
- model clauses



The View from IDRC

- IDRC vision
 - Research that is defined, designed, implemented and put to use by researchers and policy-makers from and in LMICs is a necessary contribution to development
- Question
 - Is this vision shared by others?
- Conclusion
 - If IDRC is successful, ultimately there will be no further need for it



IDRC Methods - I

- Funding
 - Grants
 - Research program designed entirely by the proponent
 - Grants are unconditional
 - Funds flow on a timeline basis
 - Little or no reporting
 - **Contribution Agreements**
 - Research design prepared by proponent in collaboration with IDRC
 - Are conditional on deliverables
 - Funding flows based on performance
 - Require regular reporting (frequency based on track record)



IDRC Methods - II

- Funding (cont'd)
 - Contracts
 - Program of work defined entirely by IDRC
 - Payments are 100% linked to performance and deliverables
 - Funds flow conditionally on a milestone basis
 - Interim and final reporting
 - Has legal weight and enforceability

IP - Definition

Intellectual Property means

- (i) all domestic and foreign patents and applications therefor and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof;
- (ii) all patentable inventions, invention disclosures, improvements, trade secrets, proprietary information, know-how, technology, technical data, schematics and customer lists, and all documentation relating to any of the foregoing;
- (iii) all copyrights, copyright registrations and applications therefor, and all other rights corresponding thereto throughout the world;
- (iv) all designs and any registrations and applications therefor;
- (v) all trade names, corporate names, domain names, trade dress, logos, common law trademarks, trademark registrations and applications therefor; and
- (vi) all rights to sue for past, present and future infringements or misappropriations of any of the foregoing.

Copyright Management

The Recipient irrevocably grants the Centre a non-exclusive, royalty free right throughout the world to:

- use all or any part or parts of the Project Outputs for non-commercial purposes in relation to the IDRC Digital Library, including, without limitation, to reproduce, copy, store, distribute, publish, adapt, digitize, transmit, communicate, telecommunicate and display, or otherwise use, the Project Outputs in any medium now existing or hereafter invented; and
- authorize and license any third party accessing the Project Outputs via the Digital Library to read, download, print, reproduce, copy, distribute or search the Project Outputs and to link to the full texts of such outputs, crawl them for indexing, pass them as data to software or otherwise use them for any other lawful non-commercial purpose.

IP - Management

The Recipient shall promptly notify the Centre of:

- a) any and all Project Inventions
- b) any and all Project Inventions
- c) any and all Project Inventions
- d) any and all Project Inventions
- e) any and all Project Inventions
- f) any and all Project Inventions
- g) any and all Project Inventions
- h) any and all Project Inventions
- i) any and all Project Inventions
- j) any and all Project Inventions
- k) any and all Project Inventions
- l) any and all Project Inventions
- m) any and all Project Inventions
- n) any and all Project Inventions
- o) any and all Project Inventions
- p) any and all Project Inventions
- q) any and all Project Inventions
- r) any and all Project Inventions
- s) any and all Project Inventions
- t) any and all Project Inventions
- u) any and all Project Inventions
- v) any and all Project Inventions
- w) any and all Project Inventions
- x) any and all Project Inventions
- y) any and all Project Inventions
- z) any and all Project Inventions

The Recipient, its employees or subcontractors, where possible, shall not, without the Centre's express written consent, use any Project Inventions for any purpose other than the specific terms, as described in the Project Invention Agreement.

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When it is deemed likely that a Project Invention may be developed, the Recipient shall be required to conclude a Memorandum of Understanding with the Centre in relation to the Project Invention. Such Memorandum of Understanding shall be incorporated by reference herein and appended as an amendment to this Memorandum.



What's important ...

- IP remains with the creator
 - No matter what the funding modality – as long as they are public funds
 - Contracted works as well (Gov of Canada new policy in 1999)
 - True also for all faculty members at Canadian universities
 - Not true for university staff
 - Global, perpetual, royalty-free licensing of IP funded publicly
 - NOT TRUE in the private sector
- Indirect costs of research in Canada
 - Funded outside of the research grant!
 - i.e. none of the 3 research granting councils (CIHR, NSERC, SSHRC) covers the indirect costs of research
 - Formula benefits universities receiving large grants

IDRC funds the indirect and direct costs of research

Indirect costs Here you should include administrative costs not directly related to the research. Indirect costs exclude overhead which are disallowed. Indirect expenses can only include:

- salaries and benefits of personnel which support and administer the project, such as secretaries, clerks, and accountants;
- stationery and other office supplies;
- telecommunication cost and
- computer equipment used for the administration or accounting of the grant disbursements.

Under no circumstances will the Centre consider indirect costs over **13%** of the recipient-administered grant value excluding the amount awarded toward the procurement of equipment which will be vested in your institution and excluding the amount of the indirect costs themselves.



Control over Intellectual Property

