

Model Agreement Memorandum of Understanding #AB20-2016

Between

The Department of General Services
and

The University of California
and

The California State University

Revision history:

Amendment 01, May 15, 2017; Amendment 02, April 9, 2018; Amendment 03, March 15, 2019

WHEREAS, California Education Code section 67325 finds that for purposes of this article, "contract" means a research, training, or service agreement between the state and the University of California or the California State University, or a grant from the state to the University of California or the California State University for research, training, or service; and

WHEREAS, California Education Code section 67326 finds, among other things, that in the 2006-07 fiscal year, University of California and the California State University receive approximately six billion dollars (\$6,000,000,000) from the State General Fund each year; state agencies and departments entered into more than 2,500 contracts or contract amendments with the University of California and the California State University; that many of these contracts have similar provisions; that the drafting of many of the contracts takes six months to a year; that in many cases, the state pays for both sides of the contract negotiations; and that it would be more cost effective if the state and the universities would establish standardized "boilerplate" provisions that would apply to all contracts between them, unless the Parties agree to alternative terms as provided for in California Education Code section 67327; and

WHEREAS, California Education Code section 67327 provides, among other things, that the Department of General Services shall negotiate and establish a model contract with standard contract provisions with the University of California and with the California State University; and

WHEREAS, California Education Code section 67327 further provides, among other things, that the standard provisions in said model contract "...shall be used in contracts entered into between the University of California or the California State University and the state, unless both contracting parties mutually determine that a specified standard contract provision is inappropriate or inadequate for a specified contract"; and

WHEREAS, representatives of the Department of General Services, other state agencies and departments, the University of California, and the California State University have met typically monthly since January 2010 to negotiate the model contract;

NOW, THEREFORE, the above-referenced entities have reached agreement on the terms and conditions of the model contract, which are contained herein.

1. Effective on January 1, 2016 and as required by Education Code section 67325 et seq., the Department of General Services, The Regents of the University of California and The Trustees of the California State University (collectively, "Parties") have negotiated the model terms and conditions (University Terms & Conditions/UTC), Attachment 3, for use in all new contracts, between State agencies and departments ("Agencies" or "Agency") and The Regents of the University of California ("UC") and The Trustees of the California State University ("CSU"¹). For the purposes of this Memorandum of Understanding ("MOU"), a new contract is defined as the award of funds, not previously budgeted or appropriated, by an Agency to the UC or CSU.
2. The Department of General Services ("DGS") will maintain the model contract terms (UTC) as Exhibit C on the Office of Legal Services home page.
3. The model contract terms (Attachment 3) will be incorporated (as Exhibit C) into the Model Agreement Template (Attachment 2), to be used as a template for all agreements subject to this MOU. The draft California Model

¹ For purposes of this MOU, CSU shall also include those recognized CSU auxiliary organizations listed as being in good standing under Section 42406 of the Code of Regulations that administer and receive extramural funds for research, training or services (Attachment 1) on behalf of the campus or the CSU system.

Agreement (CMA) Guide, (formerly titled the State and University Proposal and Administration Manual (SUPAM)), which may be used in administering projects under the model contract, will be finalized by the Parties within six months, or other mutually agreed upon time period, after execution of Amendment 03 to this MOU. The Parties may negotiate alternative terms from the Model Agreement Template or model contract terms as provided for in Education Code section 67327.

4. Representatives from DGS, UC Office of the President and the CSU Office of the Chancellor will work together in good faith to resolve implementation issues, including approval of exemptions on a case-by-case basis, in a timely manner as they arise.
5. In addition, representatives from DGS, UC Office of the President and the CSU Office of the Chancellor will meet annually, beginning one year from the effective date of this MOU to review the effectiveness of the model contract terms and to work together in good faith to identify and implement improvements to the model contract, if any. Prior to the annual meeting, the Parties will develop and conduct a standard survey of the Parties' respective constituents to identify those provisions, if any, that are considered inappropriate or inadequate.
6. In the event an Agency and UC or CSU mutually agree that a specified standard contract provision is inappropriate or inadequate for a specified contract pertaining to a specific project, the replacement provision, to be effective, must be in writing and executed by authorized representatives of the affected parties. The replacement provision will be applicable only to that specified contract and will be documented in Exhibit G of the agreement.
7. To be effective, any modifications to the model contract terms (UTC) other than that noted in paragraph 6 above, must be made in writing and executed by authorized representatives of the Parties.
8. Consistent with Chapter 2 (commencing with Section 13988) of Part 4.5 of Division 3 of Title 2 of the Government Code, relating to intellectual property, funding agreements from a state agency to the Regents of the University of California and to the Trustees of the California State University shall be subject to the model contract provisions developed pursuant to Chapter 14.27 (commencing with Section 67325) of Part 40 of Division 5 of Title 3 of the Education Code. While Patent Rights provisions were developed accordingly, the model contract, UTC, is silent on which one is the default. When applicable, one of these Patent Rights provisions (Attachment 4) will be incorporated in Exhibit G.
9. Authorized CSU Auxiliary Organizations are listed on Attachment 1, which will be maintained and updated by CSU (on the CSU Auxiliaries in Good Standing web page <http://auxiliary.calstate.edu/wp-content/uploads/GoodStandingAuxiliaryList.pdf>) in the event that any organizations gain or lose status as an Authorized CSU Auxiliary Organization).
10. This MOU constitutes the entire contract and understanding between the parties with respect to the subject matter of this MOU and supersedes any previous or contemporaneous written or oral representations, statements, negotiations or contracts, if any. The UTC, Exhibit C is incorporated by reference into this MOU as Attachment 3. To be effective, any modifications to this MOU must be made in writing and executed by authorized representatives of the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU on the month, day and year specified below.

The Department of General
Services

By:



Anna Woodrow
Assistant Chief Counsel,
Office of Legal Services

Date:

3-27-19

The Trustees of the California
State University

By:



Melissa Mullen
Director, Sponsored Programs

Date:

3-27-19

The Regents of the University of
California

By:



Randi Jenkins
Senior Research Policy Manager,
Research Policy Analysis and
Coordination

Date:

March 15, 2019