

The exchange of materials for research purposes is often conducted under legally binding agreements known as Material Transfer Agreements (MTAs) that define the conditions for exchange and the obligations of both parties to the agreement. Universities have historically transferred materials under the least restrictive conditions and typically avoid agreements that impose restrictive obligations. Nevertheless, the complexity and frequency of Material Transfer Agreements has increased as companies and universities alike have imposed more conditions and restrictions. These MTAs have a direct bearing on the future transfer of intellectual property and can impact future licensing if stringent conditions are imposed.

LSUHSC is a signatory to the Uniform Biological Materials Transfer Agreement (UBMTA) that facilitates the exchange among academic institutions of many non-proprietary research materials. If there are special considerations (the material is proprietary, infectious, or hazardous) more detailed documentation may be required to transfer the material, even between two signatories to the UBMTA.

In 1999, in response to increasingly severe requirements imposed by providers, NIH produced guidelines for its grant recipients stipulating that research materials developed with NIH funding must be broadly shared without undue restriction. These guidelines are a condition of funding and must be considered prior to signing an MTA for an NIH funded investigator if the material is to be used in the federally sponsored research program (<http://www.gpo.gov/fdsys/pkg/FR-1999-12-23/pdf/99-33292.pdf>). In 2003, NIH released an additional statement supporting the sharing and distribution of mouse resources generated using NIH funds to ensure that other researchers can benefit from such tools (<https://www.genome.gov/17515708/>).

Since researchers depend on such shared resources, it is important that LSUHSC process MTAs quickly and efficiently; however, MTAs contain many of the same provisions as a research agreement and may require complex negotiation. Certain "reach through" rights requested by a provider may restrict future research using even modified derivatives of original material. For-profit entities often require pre-review of publications, notification of inventions, an option to acquire rights, and in some cases, ownership of new materials made through or with the use of the transferred material. Such conditions are often unacceptable to LSUHSC and require negotiation to reach agreement for conditions of the transfer.

In this increasingly complex environment of proliferating MTAs, it is prudent to "cross check" technology disclosures against obligations in executed MTAs. In the absence of such a review, obligations to third parties may not be taken into account while licensing or transferring technology. LSUHSC technology disclosure forms include questions about third party support for a technology and whether materials were provided from external sources. This places reliance on the innovator(s) to recall these matters. Prior to licensing, however, a thorough review of all executed agreements concerning the technology and the innovators should be conducted to ensure compliance with existing terms and obligations.