Model Agreements as Interventions

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- Broad view of IP management
  - W waive (avoid, suppress ownership)
  - A assert (monetize w/o transfer)
  - S share (open, standards)
  - T transfer (start up, development partner)
  - E exclude (classic statutory role)

- Industry liaison
  - Handle industry agreements and licensing
  - Work closely with faculty
Fundamental Concerns

Administration
- Risk
- Compliance
- Consistency

Research & Training
- Opportunity
- Mobilization
- Reciprocity

Collaboration with one company may drive out others
A special deal may foreclose doing the same deal again
Compliance issues change with the form of transaction
Foundation-Federal SRA Contracting

- Proposal
- Review
- Award
- Contract (pro forma)

*Federal grants follow a foundation model*

*At a typical research university*
  <10% of awards are from industry
  >60% are federal
Industry Misfit With the F-F Model

- Proposal
- Review
- Award
- Draft Contract
- Redline
- Legal review
- Contract

- Often joint with industry
- Often none in university
- Agreement between tech folks
- What gets sent over—from one side or the other
- Mark up to move to requirements
- Power plays and principles
- Loaded with defensive apparatus
Administration as Target

- Proposal
- Review
- Award
- Draft Contract
- Redline
- Legal Review
- Contract

Fun!

Negotiation

Pain!

Administration
Improve Administration

- Proposal
- Review
- Award
- Draft Contract
- Redline
- Legal Review
- Contract

Template agreements
“Better” negotiators
Change policies
## Sponsorship-Procurement Misfit

<table>
<thead>
<tr>
<th>SRA</th>
<th>Procurement</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Proposal from university</em></td>
<td><em>Spec from company</em></td>
</tr>
<tr>
<td><em>University controls</em></td>
<td><em>Company controls</em></td>
</tr>
<tr>
<td><em>Publish results</em></td>
<td><em>Publish after review</em></td>
</tr>
<tr>
<td><em>First right to negotiate</em></td>
<td><em>Freedom to practice</em></td>
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It’s Not Negotiation

An SRA-Procurement impasse is often a disconnect with regard to transaction and contracting instrument

Interventions

- Negotiate (often creates substantial apparatus)
- By-pass (gift, joint study)
- Standardize (template)
- Change order of interaction (contract before SoW)
Freedom to Practice Cascade

- Delivery
- Acceptance
- Rights to all work product
- Warranty of non-infringement
- Indemnification for breach
- Insurance to cover
- All background rights
- Procure or redesign at own cost if infringing or otherwise unacceptable
Change Order of Engagement

- Draft Contract
- Redline
- Legal Review
- Contract
- Proposal
- Award

This disrupts established sponsored projects office assumptions about order and efficiency!
Even Better: Create Outreach First

- **Create Outreach**
  - IP program
  - Contract form
- **Draft Contract**
- **Redline**
- **Legal Review**
- **Contract**
- **Proposal**
- **Award**

Make these align with research & training goals

This disrupts technology licensing office assumptions of order and efficiency!
Negotiation Management

- Roles for key points of contact
  - Investigator
  - Sponsored projects officer
  - Development officer
  - Technology licensing officer
  - Legal counsel
  - Dean
Model Agreement Examples

- **Commons** (consortium, affiliates)
  - Establish administration *before* contracting
  - Use a participation agreement for governance

- **Master**
  - Full agreement, tasks compliant
  - Interpret policy ahead of tasks

- **Frame**
  - Reach 80% agreement, finish in tasks
  - Four options: accept, modify, exempt, decline
Commons Elements

- Governance
  - Membership
  - Assets (money, IP, members)
    - Within, entering, leaving commons

- Examples
  - Master agreement: commons with two members
  - Open source: commons with unlimited members
  - Affiliates program: community commons
Integrated Industry Liaison Program

- Access (build this first!)
  - Delivery, publication, licenses, services
  - Affiliates and beyond affiliates

- Membership (members have access!)
  - Affiliation, Governance, Funding
  - Subscription, Gift, License, SRA

- Collaboration
  - Facilities, personnel, information, publication
  - Reciprocity
Sample ILP Outline

- Benefits
- How to join
- TAP membership (royalty-free internal use)
- Basic collaboration (advisory role)
- Advanced collaboration (governance role)
- Convert to gift
- Convert to SRA
- Convert internal use to distribute/sell license