

POLICY ON CONTRACT RESEARCH

Date issued:	7 August 2007	Name of the owner of the policy	DVC: RIP
Date checked by Quality Promotion:	29 April 2008.	Date checked by Legal Services:	5 May 2008
Notification date: AC	20 November 2007	Notification date: ASC	29 January 2008
Date Draft policy placed online for comments.(QP)	Click here to enter a date.	Date approved: CRIC	7 October 2008
Date approved :AC	15 April 2008	Date approved: ASC	18 March 2008
Date approved by EMC:	6 October 2008	Date approved by Senate:	3 November 2008
Date approved Council	Click here to enter a date.	Date Quality Promotion post e-document on the web:	Click here to enter a date.
Date filed by Legal Services	Click here to enter a date.	Date reviewed:	Click here to enter a date.

This policy its rules, guidelines and procedures replace all previous policy and/or circulars on Contract Research.

1. POLICY STATEMENT

It is the policy of Tshwane University of Technology to support and facilitate the involvement of its staff members in contract research, including consulting, as long as this does not adversely affect their normal duties and responsibilities within the University, and is conducted within the framework of existing University policies.

2. DEFINITIONS

- 2.1. **Contractual Agreement** – legally binding and enforceable agreement between two or more competent parties in which an offer is made and accepted, and both parties benefit.

- 2.2. **Intellectual Property** – intellectual capital in the form of any and all technical or commercial information, including, but not limited to the following: chemical structures; computer software programmes; biological or chemical information; manufacturing methods and processes; process optimisation techniques and methods; specifications and formulae; know-how, data, systems and processes; production methods; trade secrets; undisclosed inventions, financial and marketing information; as well as registered or unregistered intellectual property in the form of patents, trade marks, designs and plant breeders' rights (whether granted/registered or applied for), and copyright in any works, including literary works or computer software programmes.
- 2.3. **Consultancy** – the use of expertise exercise by staff in their position at the university by individuals or agencies outside the university. The reward might be financial or not.
- 2.4. **Contract research** – research conducted in response to a need of individual or agency outside the university. The research is sponsored – partly or entirely by a sponsor.
- 2.5. **Overheads (indirect costs)** – expenses that have been incurred for purposes common to all research projects, but which cannot be identified and charged directly to each individual research project without an inordinate amount of tracking and accounting.
- 2.6. **Direct costs** – costs which can be identified specifically with a particular sponsored project and which can be directly assigned to particular activities of the project.

3. RULES

- 3.1. The University and not a University staff member is officially the contracting party in an agreement with an outside party to undertake contract research on behalf of that outside party. Such agreements may only be authorised and approved by the Deputy Vice-Chancellor for Research, Innovation and Partnerships (DVC: RIP) or his/her designate. Any agreement entered into by a staff member without obtaining the formal approval of the University shall be deemed to be an agreement that the staff member has entered into in his/her private capacity. The University absolves itself from any legal liability arising out of such unauthorised contracts.
- 3.2. All agreements for contract research shall be approved by the DVC: RIP or designate after receiving the endorsement of the relevant Head of Department/Dean of the Faculty, the Director: RIP and the University's Legal division.
- 3.3. The DVC: RIP may at his discretion, subject to applicable University policies and concurrence of the Executive Management Committee, delegate his authority to either the Director: RIP, the Deans or the Heads of Department.
- 3.4. Contract research should be undertaken if the execution of such contract research does not conflict with the interests of the University or adversely affect the staff members' performance of normal duties and obligations at the University inclusive of expected outcomes of their

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normal teaching and research activities. Any deviations from this shall constitute a breach of employment contract which will be handled through the normal remedy procedures for such breaches of contractual obligations.

- 3.5. Contract research should only commence after a legally enforceable, properly executed written contractual agreement has been signed by all the parties. Such contractual agreements must:
 - 3.5.1. be duly authorised by in accordance with section 3.2 of this policy;
 - 3.5.2. Specify a clear and definitive scope of the research to be undertaken;
 - 3.5.3. Specify the correct legal entities i.e. the University and the other contracting party
- 3.6. The University will, subject to available capacity and resources, provide the staff members with administrative services available at the University.
- 3.7. Unless agreed otherwise in writing, payments related to a specific contract research, pursuant to the payment schedule as prescribed in the contractual agreement, will only be made into a specific University account created for such purposes in line applicable financial policies of the University. Unless agreed otherwise in writing, conduct and transacting on such an account will be subject to applicable University policies regulating University finances.
- 3.8. The University shall endeavour to ensure that commitments arising out of such contractual agreements are not unduly put in jeopardy by current University practices i.e. closure of procurement in August, closure of operational expenses, etc.
- 3.9. Any variations envisaged in sections 3.7 and 3.8 shall be approved by the Executive Management Committee (EMC).
- 3.10. Any variations to the original contractual agreement have to be reduced in writing and signed by the appropriate representatives of the University and the contracting party.
- 3.11. An application to conduct contract research should be accompanied by a detailed costing of the project before being submitted to the contracting party or potential funder.
- 3.12. The costing should be as accurate as possible and should, as far as possible, account for ALL costs associated with the contract.
- 3.13. The University shall not be obligated to provide additional remuneration to staff members undertaking contract research as part of their normal course and scope of employment with the University. However, the University may, on presentation of a compelling case, and subject to the provisions of the contractual agreement with the contracting party, consider providing additional remuneration to staff members. Written motivations for such additional remuneration should be submitted to the DVC: RIP for his consideration and approval.

- 3.14. The ownership of the results including intellectual property arising out of contract research shall be governed by the provisions of the contractual agreement taking into considerations the policy of the University on intellectual property.
- 3.15. The University may, under certain circumstance as outlined in its policy on intellectual property, negotiate a perpetual, non-exclusive and irrevocable royalty-free licence to use the generated intellectual property for academic purposes inclusive of further research and development, and commercialisation in fields not applicable to the envisaged fields of application of the contracting party or parties.
- 3.16. Signed originals of contractual agreements should be submitted to the University's legal division within a month of finalisation.
- 3.17. Any disputes related to contractual agreements with outside parties shall be referred to the University's Legal division for resolution.
- 3.18. Approval is subject to consideration of the following:
 - 3.18.1 The proposed contract research satisfying the risk assessment
 - 3.18.2 Appropriate balance between the normal teaching and research activities and the contract research to be undertaken. The University has to be satisfied that the quality of the normal research and teaching activities will not be compromised by the contract research
 - 3.18.3 Available expertise and facilities to undertake the contract research. It is important that the University has adequate and appropriately skilled human resources to conduct the research contract and deliver a quality product;
 - 3.18.4 The rights, obligations, liabilities and entitlements of the University and its staff members are clear and understood. The exposure of the University to legal liability is understood and limited in line with the University's insurance provisions.
 - 3.18.5 The university is compensated appropriately for the use of its facilities and repute and the fee requested for the work is adequate to enable its staff to deliver in a professional manner;
 - 3.18.6 The University policies, guidelines and procedures are being followed
 - 3.18.7 The benefits to the University are clearly articulated.

4. DOCUMENTS

4.1 Procedures

Procedure for Contract research attached

4.2 Related documents

Policy on Intellectual Property

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5. SIGNATURES

Date checked by Quality Promotion:		Date checked by Legal Services:	
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Approved :AC		Date approved: ASC	
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Purpose of procedure: The purpose of this procedure is to offer staff guidance on conducting contract research

Scope of procedure: This procedure is applicable to all Tshwane University of Technology (TUT) Faculties and Directorates,

Definitions:

Input	Flow Diagram	Output	Doc's	Who
<p>Staff requires permission to conduct contract research</p>	<pre> graph TD Start([Start]) --> A[Conduct negotiations on contract research in consultation with Legal Services Department.] A --> B{Has Legal Services Dept. endorsed legal implications?} B -- No --> Stop1([Stop]) B -- Yes --> C[Apply for contract research opportunity to the Head of Department/Dean for support. With dean's approval, apply to the Director: Research, Innovation and Partnerships. Provide the following:- 1. The nature of the activity 2. The expected duration of the contract 3. The costs and benefits to the University 4. Accounting and reporting arrangements 5. Benefits flowing to the third party 6. Ownership of Intellectual Property 7. Availability and demands on human resources within the University and implications on normal functions of staff] C --> D[The application is forwarded to the DVC: RIP, who may refer it to the Executive Management Committee] D --> E{Has Risk been assessed? Do core functions balance contract research?} E -- No --> Stop2([Stop]) E -- Yes --> F[The application is approved.] F --> End([End]) </pre>	<p>Opportunity for contract research</p> <p>Timely submission of application</p>		<p>Staff / Legal Services Dept. / etc.</p> <p>Legal Services Department</p> <p>Staff / HoD / Dean / Director: RIP</p> <p>DVC: RIP / EMC</p>
<p>Procedure owner: DVC: RIP Checked by:</p>		<p>Date : 30 April 2008</p>		