## Agreement Issues Quick Guide for Faculty

This quick guide is intended to provide an overview of some of the most common issues requiring negotiation for sponsored agreements. University policies and procedures inform our negotiations.

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<th>Issue</th>
<th>What It Is</th>
<th>Policy</th>
<th>Preferred Language</th>
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<tbody>
<tr>
<td>Publication</td>
<td>The ability of the University to disseminate information—the products of research and scholarship - through publication and other public disclosures is required.</td>
<td>JHU Intellectual Property Policy: <a href="http://jhuresearch.jhu.edu/JHU_Intellectual">http://jhuresearch.jhu.edu/JHU_Intellectual</a> Property_Policy.pdf</td>
<td>• JHU must retain the right to publish its research without prior approval of sponsor.</td>
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<td>“The University shall only enter into a research contract or other binding commitment to perform work that can reasonably be expected to be publishable, provide educational opportunities, and/or be in the public interest. ... The University shall enter into contracts or other binding commitments to conduct research and training only if they permit the disclosure and publication of research.”</td>
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<tr>
<td>• Background IP</td>
<td>Includes knowledge, experience, and expertise obtained by JHU prior to the agreement</td>
<td>JHSPH Copyright Policy: <a href="https://my.jhsph.edu/Resources/PoliciesProcedures/ppm/PolicyProcedureMemoranda/Faculty_09_Ownership_and_Use_Educational_Materials.pdf">https://my.jhsph.edu/Resources/PoliciesProcedures/ppm/PolicyProcedureMemoranda/Faculty_09_Ownership_and_Use_Educational_Materials.pdf</a></td>
<td>Sponsor shall not have any right to acquire by assignment or licenses, exclusive ownership or use of JHU Background IP.</td>
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<tr>
<td>• Copyright</td>
<td>Protects tangible expression and communication of ideas—not the ideas. (e.g. books, articles, course syllabus, lectures, software.)</td>
<td>“The University owns all rights, title and interest in and to Intellectual Property developed as a result of support either directly from or channeled through the University.”</td>
<td>JHU generally retains rights to copyrightable works, including the right to reproduce, distribute, make derivative works, perform, publicly display the work and to authorize others to do so. May agree to grant a license to sponsor.</td>
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<td>• Data</td>
<td>Includes results of sponsored research</td>
<td></td>
<td>JHU owns the data it generates under an agreement and may provide Sponsor a license to use it, generally for internal purposes.</td>
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<td>• Inventions</td>
<td>Includes patentable inventions and discoveries</td>
<td></td>
<td>Ownership in inventions that JHU discovers shall vest in JHU. Sponsor may be granted a first option to negotiate an exclusive or non-exclusive license.</td>
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<td>Confidentiality</td>
<td>Designates specified sensitive or proprietary information as confidential and places restrictions on the sharing of that information</td>
<td>JHU Intellectual Property Policy: <a href="http://jhuresearch.jhu.edu/JHU_Intellectual">http://jhuresearch.jhu.edu/JHU_Intellectual</a> Property_Policy.pdf</td>
<td>JHU cannot accept confidentiality terms that would restrict public disclosure of the research results.</td>
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<td>“The faculty shall not undertake research which prohibits the faculty member from disclosing the existence of the agreement or restricts the faculty member’s public disclosure of information developed.”</td>
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<tr>
<td>Topic</td>
<td>Description</td>
<td>Resources</td>
<td>Notes</td>
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| Indemnity/Liability      | Addresses which party will be legally responsible and/or under what circumstances one party will defend the other | General Counsel guidelines | - JHU will not be responsible for Sponsor’s use of the data or deliverables.  
- Always use General Counsel Guidelines to mitigate risk. |
| Budget                   | Outline the anticipated expenditures for a project and must comply with JHU and Sponsor requirements. | **JHU Indirect Cost Policy** and **JHU Cost Recovery Policy**  
https://my.jhsph.edu/Offices/ORA/Pages/default.aspx  
**JHU Cost Sharing Policy**:  
http://finance.jhu.edu/policy_procedures/category_account_policy_procedures.html  
**JHU Effort Reporting Policy**:  
http://finance.jhu.edu/policy_procedures/category_account_policy_procedures.html | - Federal IDC rate (aka NICRA rate) must be used for every federal award without explicit IDC cap.  
- For non-federal awards, minimum IDC must be collected in accordance with JHSPH policy.  
- PI must include minimum of 1% effort.  
- Voluntary cost sharing is prohibited and should not be included in budget or SOW. |
| Payment                  | Sets forth the payment terms and mechanisms by which JHU will be paid | **JHU Intellectual Property Policy**:  
http://jhrefsearch.jhu.edu/JHU_Intellectual_Property_Policy.pdf  

“All written or broadcast material containing the University’s name for advertising, marketing, or other promotional purposes shall be submitted for approval to the President prior to use of such material. A statement on the use of the University’s name shall be included in all appropriate contracts between industry (company) and the University.” | - Must specify Fixed Price or Cost Reimbursement  
- Payment Structure (e.g., invoicing process, frequency of payments, etc.) must be established at the outset and approved by ORA.  
- Payment based on receipt of deliverables  
- More/larger payments at the start of project  
- Final payment no greater than 10% of total value |
| Termination              | How and for what reasons the agreement can be ended by one or both parties | General Counsel guidelines | - JHU must have the ability to terminate for convenience.  
- If termination is for JHU default, JHU must have notice and an opportunity to cure first.  
- JHU should always be paid for un-cancelable commitments and never have to return spent funds.  
- JHU should be paid through the effective date of any termination. |
| Use of JHU Name          | Using JHU name or logo for products, promotions, marketing, or advocacy | **JHU Intellectual Property Policy**  
http://jhrefsearch.jhu.edu/JHU_Intellectual_Property_Policy.pdf | - No sponsor use without prior approval from the Office of Communications  
- Faculty cannot approve use of JHU name |
| Governing Law/Venue      | Which state or country’s laws will be applied when there are disputes, and where any arbitration or litigation will take place. | General Counsel guidelines | - Maryland law and venue is always preferred.  
- We can agree to another state’s laws and venue if it is statutorily required.  
- For international awards, we can agree to English law. |
## JURA AGREEMENT REVIEW TIMELINE OBJECTIVES

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<th>DAY</th>
<th>ACTION</th>
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<tr>
<td>1-2</td>
<td>• Agreement received (via Coeus, if funded; via PI/Department or sponsor, if unfunded), and acknowledgement e-mailed to PI and Department.</td>
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</table>
| 3-7 | • Initial review of agreement and supporting documents for completeness.  
• If incomplete, request information from PI/Department and/or sponsor. |
| 7-13 | • Substantive review of agreement. Review with Executive Director when necessary.  
• Identify contractual issues and draft requested revisions.  
• Discuss issues and revisions with PI and Department as needed; schedule kick-off meeting as appropriate.  
• Engage Associate Vice Provost to highlight potentially problematic issues. |
| 14  | • Provide requested revisions to sponsor and offer a telecon for further discussion as needed.  
• Brief PI and Department. |
| 21+ | • Follow up with sponsor weekly until feedback received.  
• Once initial comments received from sponsor:  
  - If further negotiations necessary, schedule telecon within week.  
  - Engage Associate Vice Provost as appropriate.  
  - Contact General Counsel as appropriate.  
• If sponsor not responsive:  
  - Identify and contact supervisor of sponsor POC and notify dept contact and PI of action in separate e-mail.  
  - Request JHU PI contact counterpoint at sponsor. Copy dept contact.  
• Recommend pre-award account to Department as appropriate. |

## ROLES AND RESPONSIBILITIES

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<th>PI/DEPT</th>
<th>JHURA</th>
<th>PH FINANCE</th>
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| • Identify funding opportunity and develop proposal in Coeus.  
• Route proposal (or award if no proposal) to JHURA for review, approval and (if award) negotiation.  
• Send unfunded agreements to jhura@jhu.edu for review and negotiation.  
• Facilitate communication between faculty, JHURA, and sponsors.  
• Manage sponsored accounts. | • Review and approve proposals routed through Coeus.  
• Submit electronic proposals.  
• Negotiate and accept awards.  
• Draft and negotiate funded and unfunded agreements.  
• Create and manage outgoing subawards.  
• Sign all agreements on behalf of University.  
• Workflow fully executed awards to SPSS or PH Finance. | • Receive fully executed awards from JHURA.  
• Review and Identify SAP master data.  
• Workflow awards with master data coversheet to Sponsored Shared Services.  
• Verify that master data is setup correctly in SAP.  
• Process additional IO requests.  
• Maintain budget for program income & award interest.  
• Monitor accounts through reporting tools. |