

**[DOST Administrative Order No. 009, s. 2015,
September 14, 2015]**

**THE TECHNOLOGY TRANSFER PROTOCOL OF THE DEPARTMENT
OF SCIENCE AND TECHNOLOGY - RESEARCH AND DEVELOPMENT
INSTITUTES (DOST-RDLS)**

*Adopted: 14 September 2015
Date Filed: 22 September 2015*

I. RATIONALE

The Protocol shall define the policies, strategies, and processes or procedures to be adopted by the Department of Science and Technology - Research and Development Institutes (DOST-RDIs) to identify, protect, manage, and commercialize Intellectual Properties (IPs) and/or Intellectual Property Rights (IPRs) generated from research and development (R&D) funded by the government and to undertake technology transfer activities, based on Republic Act (RA) No. 10055, otherwise known as Philippine Technology Transfer Act of 2009, and its Implementing Rules and Regulations (IRR) or the Joint DOST-IPO Administrative Order No. 02-2010 dated 18 August 2010.

This is in accordance with the DOST's twin mandate of providing central direction, leadership and coordination of scientific and technological efforts and ensuring that the results therefrom are geared and utilized in areas of maximum economic and social benefits for the people.

Consistent with the DOST Intellectual Property Policy (DOST A.O. No. 004 s. 2015), any issues on the IPs/IPRs generated out of DOST-funded R&D shall not impede the expedient transfer, roll-out or commercialization of the needed technology, as may be determined essential by the DOST Secretary in case of national emergencies or the need to advance national and local interests.

II. Declaration of Policies and Principles

The State fully recognizes that science, technology, and innovation are essential for national development and progress. It shall therefore give priority to research and development (R&D), invention, innovation, and their utilization. It shall also encourage the widest and most systematic participation of all stakeholders including marginalized groups like elderly, indigenous people, physically challenged, and women in policymaking related to science and technology, and in the generation, transfer, and utilization of inte

The State shall also facilitate the transfer and promote the utilization of IP for the national benefit and shall call upon all RDIs that perform government-funded R&D to take on technology transfer as their strategic mission and to effectively translate

results of government-funded R&D into useful products, processes, and services that will redound to the benefit of Filipinos, notwithstanding the revenue generated from IPRs and technology transfer activities.

The State likewise acknowledges that the successful transfer of government-funded R&D results depends on the proper management of IP, development of capacity of RDIs to be competitive, and on enhancing interaction and cooperation with the private sector, particularly small and medium enterprises through collaborative and contract research based on equitable, fair access, and mutual benefit for all involved partners.

The State shall further establish the means to ensure greater public access to technologies and knowledge generated from government-funded R&D while enabling, where appropriate, the management and protection of related IP.

Finally, the State recognizes that an effective intellectual and industrial property system is vital to the development of domestic creative environment, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products.

III. SCOPE

The Protocol shall cover the identification, disclosure and protection, management, promotion, dissemination, transfer or commercialization by the RDIs of IPs and/or IPRs generated from R&D funded by the government.

IV. DEFINITION OF TERMS

For the purpose of this Protocol, the following terms shall be defined as follows:

1. **Due Diligence Report** refers to the results of the investigation conducted prior to any technology transfer arrangement to reasonably determine the prospective Technology Adopter's qualifications and capability to comply with the transfer or commercialization requirements.
2. **RDI Technical Review Committee (RDI-TRC)** refers to the RDI's official group or committee, comprised of researchers or experts, selected officers or Executive Committee members, and Technology Licensing Office (TLO) representative, tasked to monitor new and ongoing R&D projects/activities funded by the government, determine the technologies or IPs generated therefrom, and evaluate the same for transfer or commercialization.
3. **Technical Assistance** refers to the assistance provided in relation to training or capability building and other activities, including but not limited to, plant set up or debugging and start-up operation, equipment set up or upgrading and test run, which shall be the subject of a Technical Assistance/ Service Contract or Memorandum of Agreement (MOA).
4. **Technical Information or Data** refer to the know-how, information or data, which may be transmitted in any form, whether oral or written, electronic or otherwise, which include but are not limited to, documents, software, photographs, blueprints, floor plans or layouts of plants and buildings, diagrams or designs of equipment, diagrams or blueprints of machines, lists and specifications of spare parts, operating/assembly instruction manuals,

process flow charts, and others, which shall form part of the technology transfer arrangement.

5. **Technical Services** refer to the services rendered in relation to the demonstration or advice on manufacturing and other operations, which shall be covered by a Technical Service Contract or included in the Guidelines for the Implementation of Contract R&D, Training and other Technical Services, whichever is applicable.
6. **Technology Adoptor** refers to any person or legal entity undertaking technology transfer arrangement with the RDI.
7. **Technology for Commercialization** refers to any technology or intellectual property created or developed from R&D projects/activities funded by the government in accordance with the thrusts/priorities of the DOST. The technology should be pilot tested, if applicable, and must pass the standards or criteria set for evaluation by the RDI-TRC in terms, among others, of technical feasibility and economic viability.
8. **Technology Generator** refers to the RDI represented by its scientists and/or researchers who are directly involved in the creative work(s), such as but not limited, to inventions (whether patentable or non-patentable), utility models, industrial designs, and other IPs and/or IPRs.
9. **Technology Maker** refers to research personnel directly involved in the creative work(s), such as but not limited to, inventions (whether patentable or non-patentable), utility models, industrial designs, and other IPs and/or IPRs.
10. **Technology Transfer Arrangement** refers to contract or agreement involving the systematic transfer of knowledge for the manufacture of a product, application of a process or rendering of a service, including sale, assignment or licensing of IPs and/or IPRs.
11. **Valuation Report** refers to the report on the valuation of the technology or IP using various approaches and methods, the contents of which are outlined in Section 4, Chapter III of the Joint DOST-DTI-IPOPHIL Administrative Order No. 001 dated 26 June 2012 entitled "Guidelines on Intellectual Property Valuation, Commercialization, and Information Sharing of Republic Act No. 10055."

The definitions as stated in R.A. No. 10055 and its IRR shall be adopted for the following terms:

1. Commercialization
2. Government Funding Agency
3. Intellectual Property
4. Intellectual Property Rights
5. Potential IPRs
6. Research Agreement
7. Research and Development
8. Research and Development Institute
9. Research Funding Agreement
10. Spin-off Firm or Company
11. Technology Transfer
12. Technology Transfer Protocol

V. FUNCTIONS OF TECHNOLOGY LICENSING OFFICE (TLO)

1. The RDIs shall establish their own TLOs and/or Technology Business Development Offices pursuant to Section 20, Article IX of R. A. No. 10055 and Rule 24, Chapter IX of the IRR or Joint DOST-IPO Administrative Order No. 02-2010 dated 18 August 2010.
2. The (name of position/office/group) shall be designated as the TLO of each RDI.
3. The TLO shall carry out the following main functions:
 - a. Assist in the prior art search or patent search and other patent information services;
 - b. Provide assistance in IPs and IPRs protection;
 - c. Undertake IP and IPR licensing, transfer or commercialization negotiations;
 - d. Provide IP valuation service to assess the IP assets and determine their worth or value;
 - e. Promote IPs and IPRs ready for commercialization;
 - f. Maintain database of IPs and IPRs to ensure traceability; and,
 - g. Manage IPs and IPRs and their revenues.

VI. IDENTIFICATION, DISCLOSURE AND PROTECTION OF INTELLECTUAL PROPERTIES

1. The RDI shall execute a Research Agreement with the researcher(s) containing provisions, among others, requiring the latter to identify and disclose to the former the IP derived from the R&D funded by the government, and to assign to the former the ownership and rights over the IP or work; sharing of revenues; maintaining the confidentiality of information; and, protecting the IP.
2. Prior to the execution of the Research Agreement, the researcher(s) shall submit to the RDI for evaluation a report on the intended R&D showing, among others, the prior art search or patent search results.
3. The researcher(s) shall promptly identify and disclose the IP generated from the R&D to the Head of the RDI by submitting an Invention Disclosure Form, which shall include, but not be limited to, the following information:
 - a. Title of Technology or Invention
 - b. Complete Names of Researchers/Inventors (directly involved in the R&D)
 - c. Brief Overview of the Technology or Invention
 - d. Technical Description of the Technology or Invention, with Details and Supporting Information
 - e. Search Terms
 - f. Prior Findings, Methods, Devices or Developments
 - g. Phases of Development
 - h. Patentability/Registrability of the IP
 - i. Plans for Protection of the IP; Intended Date of Filing of Application
 - j. Commercial Potential and/or Public Benefit of the IP
 - k. Modes of Transfer or Commercialization of the IP

- l. Prospective Licensees/Co-Developers/Adoptors/End-Users
- m. Intended Dates of Conception and Reduction to Practice
- n. Sponsorship/ Other Collaborations
- o. Agreements

3.1 The TLO shall assign a case number for tracking and monitoring purposes. The case number shall follow the following format:

XXX - ###- ###
(RDI) (Year) (Number)

3.2 Together with the submission of the Invention Disclosure Form, the researcher(s) shall immediately execute a Deed of Assignment of the IP in favor of the RDI.

3.3 The TLO shall determine and recommend to the RDI the method of IP protection.

4. The RDI shall make a confidential disclosure of IPs and/or potential IPRs to the Head of the Government Funding Agency (GFA), if the R&D project is funded by the GFA, and/or the DOST-TLO, for GAA-funded projects, within thirty (30) calendar days from the date of confidential disclosure by the researcher(s) to the RDI. Within the same period, the RDI shall submit to TAPI the complete disclosure documents containing the Invention Disclosure Form and its attachments such as the prior art search results and technical/terminal report.
5. Upon the decision and notification of the RDI and GFA, the RDI, through its TLO or patent personnel concerned, in coordination with Technology Application and Promotion Institute (TAPI), shall assist the Technology Maker(s) of the IPs in the preparation of the documents for the filing of the application for IP protection with the duly authorized entities, such as the Intellectual Property Office of the Philippines (IPOPHL).
6. The RDI shall file the application for IP protection with the IPOPHL, through TAPI, within thirty (30) calendar days from the date of confidential disclosure by RDI to GFA and/or DOST-TLO and upon submission of complete disclosure documents stated in item No. 4.
7. No public disclosure about the IP shall be made which would constitute a prejudicial disclosure or include the disclosure of confidential information. In no case shall a disclosure about the IP be made which would prejudice its full protection. In the event that a public disclosure is made, IP application shall be filed within three (3) months from the date of such public disclosure.
8. Confidentiality agreements containing provisions on maintaining and protecting the confidentiality of proprietary information shall be executed with the individuals or entities concerned, such as the RDI research staff, and the GFA and their staff, at the onset of the R&D project or activities when confidential information may be disclosed or acquired.
9. The RDI shall notify the GFA, if the R&D project is funded by the GFA, and/or DOST-TLO, if funded thru GAA, of the filing of IP application, within a period of three (3) months from the date of filing, and shall report annually on the progress of said application.
10. The RDI shall inform the GFA and/or DOST no within six (6) months from the effectivity of the Protocol of all IP applications, licenses and assignments