



# SPONSORED PROJECTS OFFICE POLICY MANUAL

## COOPERATIVE RESEARCH & DEVELOPMENT POLICY

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# SPO Policy for Joint Work Statements and CRADAs

## A. JWS/CRADA Proposals

The SPO COs have the institutional review responsibility for submitting all CRADA proposals to the Laboratory's CRADA partners and the [Joint Work Statement](#) and CRADA to DOE for review and approval necessary to the CRADA proposal review and submittal process.

### CRADA Analysis

The CO should review the JWS and the [Statement of Work](#) to ensure that the project involves a real work effort on the part of the Partner.

The CRADA is to be used only if there is a true collaboration on behalf of the Partner and LBNL.

*If* there is no DOE funding involved, then consideration should be given to doing the research as a WFO contract rather than a CRADA.

The partner must be informed of the availability of the class waiver WFO in accordance with Contract 31 Clause I.92 n(4)(i) .

There must be *in-kind* contributions to document the Partner's collaborative activities to demonstrate that the Partner is providing more than money.

### Joint Work Statement

The CRADA process is started with the [Joint Work Statement](#). Special attention should be given to:

#### 1. Fairness of Opportunity

It is important that fairness of opportunity is followed and documented. The file must describe how the LBNL and the Partner joined efforts for the proposed CRADA, including how the Partner became aware of LBNL's capability and willingness to participate

#### 2. U.S. Competitiveness.

- The JWS should describe if the Partner will agree to the standard DOE clause on U.S. Competitiveness. If not, then a description of

the alternative benefits the Partner is willing to contractually agree to will need to be described utilizing the US Competitiveness [Worksheet](#).

- *2/26/93 - U.S. Competitiveness Work Sheet was distributed via DOE Memorandum - [Restatement of Departmental Technology Transfer Policy on U.S. Competitiveness](#).*

## Other Important Considerations:

### 1. Use of Students

The Lab policy for using students on CRADAs is found [here](#). So long as there is no protected generated information (the standard LBNL language), use of students is allowed.

### 2. Advance Invoice

If the CRADA partner is providing funds, an advance must be obtained prior to starting the CRADA. The process to get an advance invoice is found [here](#).

### 3. EHS & Human and Animal Use Approvals

A new CRADA requires EHS approval which will be in the form of an email. If Human/Animal subjects are used, follow the process [here](#).

### 4. Conflicts of Interest Review

Ensure the COI policies found in [RPM 10.5](#) are followed. No award can be done unless approved by the Lab COI coordinator and then DOE

If there is a positive COI, the SPO CO sends a [CRADA Positive COI transmittal letter](#) to DOE/BSO requesting their review and approval of a positive financial disclosure prior to the commencement of the research.

This is done after the Lab COI coordinator has approved the affected employees' participation in the CRADA.

## 5. U.S. Trade Representative (USTR)

*[For Foreign CRADA Partners]*

The [DOE CRADA Order](#) requires consultation with either the USTR or information on its [website](#) to satisfy the requirements that the foreign country has favorable reciprocal partnership policies. Document this in the [JWS](#) and a [memo](#) to file.

## 6. Option to Exclusive License

The "Morella Bill" requires that a CRADA partner be given the opportunity to get an option to an exclusive license for a pre-negotiated field of use license to LBNL's Subject Inventions. Contact TTIPM and provide the Licensing Manager with the Joint Work Statement and contact information. Request that TTIPM contact the CRADA partner to offer the partner the option agreement

# Proposal and Negotiation Process

## 1. CRADA Proposal Package to Partner

The SPO CO prepares the [CRADA Partner proposal transmittal letter](#) and attaches:

- [CRADA](#)
- Scope of Work
- Budget

...And sends the package to the proposed CRADA partner contact.

## 2. CRADA Proposal Approval - SPO Manager and DOE

SPO CO prepares a [DOE/BSO CRADA transmittal letter](#) and attaches the

- Joint Work Statement
- proposed CRADA
- and, if applicable, the Exception to Full Cost Recovery form

For review and approval by the SPO Manager. The SPO manager must sign the Joint Work Statement.

On his/her approval, the CO submits the package to DOE/BSO for its review and approval.

- After approximately ten days have passed since submitting the proposal to DOE, the SPO CO follows-up with DOE/BSO on approval status of the JWS and CRADA. Respond to any DOE/BSO questions on the approval package.

### 3. Partner Negotiations / DOE Approval to T&C Changes

The SPO CO contacts the Partner's contracts office to determine if the Partner has any questions or issues on the proposed CRADA.

If the proposed CRADA terms are acceptable, the SPO CO should request that the Partner signs both copies of the CRADA and returns them to the SPO CO for signature.

- **Changes in Terms and Conditions.** If negotiations on CRADA terms are necessary, the SPO CO should not agree to changes to terms and conditions that DOE would be unlikely to approve. The SPO CO should only agree to changes that they feel have a reasonable chance of obtaining DOE approval.
- **DOE/BSO Approval of Changes to T & C.** Once contract negotiations are complete, the SPO CO should prepare a [DOE/BSO CRADA transmittal letter](#) explaining the basis for each change and submit the letter and negotiated CRADA to the DOE/BSO Contracting Officer for approval.
- **Re-negotiations.** SPO CO should follow-up with the DOE/BSO CO to determine if the negotiated contract terms are acceptable. If not, then the DOE changes to the negotiated CRADA are re-negotiated with the Partner until both partner and DOE and LBNL are in agreement on the negotiated contract terms.

Signatures are then obtained from the Partner and SPO Manager on the negotiated CRADA, and partner advance payment obtained, if required.

## B. Award Process

### 1. SPO Manager Signature

The SPO Manager is the signatory to the CRADA. SPO COs can sign non-cost time extensions only.

### 2. SPAA / Project

Once all the required LBNL and DOE approvals have been obtained for the award, the SPO CO follows the Procedures found [here](#) to enter the needed information into the Enterprise Research Administration System

### 3. DOE CRADA Records

SPO prepares a [CRADA](#) Transmittal letter and sends it along with a copy of the executed CRADA to DOE/BSO contracts for their records.

## C. AMENDMENTS

A JWS is not required for amendments. DOE approval is required for amendments that effect scope and funding. No cost extensions do no require DOE approval. The letter found [here](#) is used for DOE approval for CRADA amendments